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THE HISTORY
OF
THE MUNICIPAL CORPORATION
OF
THE CITY OF BOMBAY.

COMPILED BY
L. W. MICHAEL.

1902.

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THE MUNICIPAL CONSTITUTION.

The Constitution of the Corporation of to-day materially differs from that of the Bench of Justices which was in existence more than a century ago. In order to give a succinct history of the existence of what may well be called the Board of management of municipal affairs, it is necessary to trace its history back to the year 1792. In that year by Act of Parliament, Statute 33, Chap. 52, power was given (sec. clii) to the Governor-General in Council of Fort William in Bengal, for the time being, to appoint Justices of the Peace. Such Justices were not empowered to sit in courts of Oyer and Terminer and General Goal delivery unless called upon to do so, and further provision was made in clause clii of this statute, that no person was capable of acting as a Justice of the Peace till he had taken the requisite oath. The statute although it contained one hundred and sixty three sections, had only about six sections which related to what has been termed the "Constitution of the Corporation." One section authorised the appointment of Justices, another authorised the Justices to appoint scavengers for cleansing the streets of Calcutta, Madras, and Bombay, and to order their being watched and repaired, and further to make assessments for those purposes.

Act of 1792.

In order to give an accurate idea of the intention of the Legislature in this respect, I quote the 158th section in extenso. It says.—“Be it therefore enacted that it shall “and may be lawful to and for the Justices of the Peace “within or for the Presidencies of Fort William, Fort St. “George and Bombay, respectively, for the time being, or “the major part of them from time to time assembled at their “General or Quarter Sessions, to appoint scavengers for “cleansing the streets of the said Towns or factories of “Calcutta, Madras and Bombay, respectively, and to nominate and appoint such persons as they shall think fit in “their behalf and also to order the watching and repairing “of the streets therein as they respectively shall judge “necessary, and for the purpose of defraying the expenses “thereof; from time to time to make an equal assessment or

“assessments on the owners or occupiers of houses, buildings
 “and grounds in the said Towns or factories respectively ac-
 “cording to the true and real annual values thereof, so
 “that the whole of such assessment or assessments shall not
 “exceed in any one year the proportion of one twentieth
 “part of the gross annual values thereof respectively, unless
 “any higher rate of assessment shall, in the judgment of the
 “Governor-General in Council or Governor in Council of
 “the said respective Presidencies becomes essentially ne-
 “cessary for the cleansing, watching or repairing thereof,
 “in which case the said Governor-General in Council or
 “the Governor in Council, shall, and may in any such
 “urgent occasion, authorise a further assessment, not ex-
 “ceeding in any one year the half part of the amount of the
 “ordinary annual assessment hereinbefore limited, and that
 “it shall be thereupon lawful for the said Justices to make
 “a further assessment according to the tenor of such order
 “and not otherwise or in any other manner; and that all
 “and every such assessment or assessments shall and may
 “from time to time be levied and collected by such person
 “or persons and in such manner as the said Justices by
 “their order in Session shall direct and appoint in that
 “behalf, and the money thereby raised shall be employed
 “and disposed of according to the orders and directions
 “of the said Justices in Sessions respectively, for and to-
 “wards the repairing, watching, and cleansing the said
 “streets and for no other purpose; and that the Assess-
 “ments being allowed under the hands and seal of such
 “Justices or any two or more of them shall and may be
 “levied by warrant under their hands and seals or the hands
 “and seals of any two of them, by distress and sale of the
 “goods and chattels of any person or persons not paying
 “the same within eight days after demand, rendering the
 “over plus (if any be) to the same person or persons, the
 “necessary charges of making, keeping and selling such
 “distress or distresses being first deducted.”

Another Section authorised that no spirituous liquors
 could be sold in Calcutta, Madras or Bombay without
 a license, and that the Governor-General in Council or the
 Governor in Council was authorised to prescribe the limits
 of those places. This statute further contained two or three
 unimportant clauses which did not really relate to the better
 management of the town from a municipal point of view.

The power of appointment of Justices was revised in the 13th year of His Majesty George III and again by 7 George IV Chapter XXXVII and then by 2 and 3 William IV Chapter 117, and also by Act XVI of 1841 and Act VI of 1845.

In the early part of the century there were no special rules for the conservancy of the Town and Island of Bombay. Offences were apparently punishable under the ordinary regulations, which were from time to time put in force for the safety and welfare of the entire western Presidency without reference to any particular locality. In 1812 a "Rule Ordinance and Regulation" (in contradistinction to the ordinary Regulations) for the good order and Civil Government of the Island of Bombay passed in Council on the 25th March 1812; which, though very far from being perfect, showed that Police and Sanitary measures were begining to be appreciated, and formed the germ of all Municipal laws which then existed. The "Rule Ordinance and Regulation" here alluded to, took cognizance of various subjects and consisted of "Titles" and "Articles." "Title First"—treated of Magistrates, who were styled Magistrates of Police and who were to perform the duties and exercise the authorities specified therein.

Rule and
Ordinance of
1812.

Article No. 1 ruled that the Hon'ble Governor in Council should select two Justices of the Peace who were styled and acted as above.

Article No. II defined the duty of the Senior Magistrate of Police. He exercised his authority within the Fort and Harbour of Bombay and had to attend at the Office of Police in the Fort from 10 in the forenoon to three in the afternoon every day. He was further required to leave at the said office information where he was to be found at any hour of the day or night. If he was incapacitated by sickness to act and attend, he was *bound* to procure another Justice to act in his stead.

Article No. III provided for a second Magistrate to exercise his authority over the rest of Bombay. He was bound to attend office at same hours as the Senior Magistrate, to give the same information as to his diurnal and nocturnal movements and to provide the same substitute in case of disability.

Article No. IV laid down that each of these Magistrates should ordinarily within his own district, and occasionally

elsewhere in the Island, do all acts that a single Justice of the Peace may by law of England do. The Magistrates of Police were not however the sole Municipal authorities.

"Title second" treated of the "Petty Sessions." Under this title it was laid down that, on every Monday morning at 10 o'clock a court shall be assembled at the Police office within the fort, to be entitled the "Petty Sessions."

Article II provided that this court should consist of 3 members, two of whom were the Magistrates of Police, and the third a Justice of the Peace, who attended by rotation. This "title" laid down rules which to some extent served to guide the Court as to what was considered the proper mode of transacting business, and also provided for appeals, from its decisions to the Grand Jury.

"Title third" provided for the appointment of some respectable European to be High Constable. Article II for a sufficient number of Europeans to be Constables for the preservation of quiet and the execution of the law. These officials were appointed by the Justices at their Quarter Sessions.

"Title Fourth" concerned "offences against the Public Communication." This forbade roads or streets to be encroached upon by buildings, laid down that diggers and owners of wells were required to surround them with a wall of chunam three feet high. Articles IV & V provided for carriages and horsemen going at a moderate pace, and keeping to the proper side of the road, numbering hackneys, committing nuisances, and leaving carts and carriages in the street or road, with or without horses or bullocks.

Article III provided that no owner or occupier of land were to suffer pits to remain uncovered during the night. In case of any infringement of this "Title" the Court of Petty Sessions were empowered to inflict such legal punishments as the danger, *audacity* or repetition of the offence required.

"Title fifth" prohibited the preparation of oil, spirits, gun powder &c., within the Fort or in the Black Town.

The remaining "Titles" provided against trades which might be made instrumental to the commission of crimes.

They also treated of dangerous weapons, of coining, of religious rites and processions, of a general register annually for births, marriages and deaths; of the slave trade and slavery, and lastly a few general rules.

"Rule Ordinance and Regulation II of 1812" was passed vesting a control in the sale of Arrack and other spirituous liquors beyond the limits of the Town of Bombay and in the Island generally, in the Justices of the Peace.

"Rule and Ordinance III of 1812" was intended to restrain the construction of all buildings within the town walls, and to prevent the introduction of material of a combustible nature within the garrison.

Whether the powers entrusted to the Court of Petty Sessions as laid down in Rule Ordinance and Regulation I of 1812 were abused or not, there is nothing to show, but the Government after a time perceived that a road was open to great abuse of power, might be inferred from the fact, that three year's after the passing of "Rule Ordinance and Regulation 1 of 1812," they passed another for "Enlarging, Explaining and Amending it." In the new Rule the powers of the executive authorities were limited, and it was no longer left to the Court of Petty Sessions to inflict such legal punishment as the danger, *audacity*, or repetition of the offences justified. Regulation XIX of 1827, prescribed rules for the Assessment and collection of the Land Revenue and for collecting Taxes on shops and stalls; on beating the Battaki; on making Proclamation by the Crier; on Country Music; on wedding sheds and places of public amusements; on Houses; on Carriages; on Horses; for causing individuals who may sell or transfer Houses or tenements subject to quit or ground rent, to give notice of the same to the Collector and also for levying fees in the Court of Petty Sessions and Police Offices. These Regulations caused a great deal of friction between the Bench of Justices and the different authorities.

The Judges considered that they had a voice in all matters, as for instance the Judge of the Supreme Court wrote to the clerk of the Peace (8th October 1833) requesting to be furnished with an account of the Income and Expenditure of the Assessment Funds for one year ending on the day on which the account was made up, and a copy of all orders relating to the Assessment Fund together with a report whether any or what streets were from

Regulation
XIX of 1827.

Municipal
affairs interference by
Judges of the
supreme
court.

deficiency of funds in want of a firm and well constructed road or path to make them safely and conveniently passable.

The Bench promptly replied expressing their extreme regret that they felt precluded by a sense of public duty from affording the information called for, being of opinion that their compliance with such a requisition would be a virtual recognition, which they were not prepared to admit, on the part of the Honorable the Judges of the Supreme Court to exercise at all times and in any manner they might think fit, a control over the collection and disposal of those funds which had been vested by the legislature in His Majesty's Justices of the Peace and for which they conceived they were answerable to higher authority, to the event only, of complaint being preferred against them by individuals who deemed themselves aggrieved by their acts.

The Bench when assembled in Sessions had the privilege of calling upon the Court of Petty Sessions to furnish them with copies of proceedings in certain cases, but the Court at the same time had the option to refuse to do so, and very often the Bench was informed that their request to be furnished with proceedings could not be complied with.

In 1833, His Excellency the Governor indulged in a little plain speaking with the Chairman of the Bench. The circumstance arose in reference to a letter which the Governor addressed the Bench, stating that it was proposed to adopt to Bombay, the principle of Police reform in Calcutta, by the appointment of a Military Officer to the station of Superintendent of Police who was also to be the Collector of Assessment. At that time, Mr. Notan, was the Collector of Assessment, and the Bench submitted his claim for recognition by Government, as under the new arrangement he would be deprived of his appointment. Government replied that they would consider Mr. Notan's claim without entering into a specific engagement on the subject. The Bench considering the hardship of the case ordered a provision to be made for Mr. Notan by paying him temporarily a compensation of Rs. 200 a month.

His Excellency the Governor then sent for Mr. Bruce who was Chairman of the Bench. The substance of the

Proposed
appointment
of Superintendent of Police as controller of assessment.
His Excellency the Governor's criticism thereon.

conversation is given in Mr. Bruce's own minute to the Justices as under:—

“ I have requested your attendance conceiving it to be due to you as well as to myself to make you acquainted, as early as possible, with the substance of a conversation between the Right Hon'ble the Governor and myself as your chairman on Wednesday last at the Town Hall, upon the subject of the late grant of compensation to Mr. Notan.

“His Lordship commenced by alluding to a former interview at Parell, regarding the arrangement lately carried into effect of uniting the Superintendence of Police with the office of the Collector of the Assessment and went on to say that he had then distinctly stated that in the event of H. M.'s Justices consenting to that arrangement no remuneration was to be granted to Mr. Notan, but that there must be a clear saving in the charges of collecting those funds of 5 per cent, that to his great surprise, however, he had lately learnt that upon a motion by me to that effect compensation had been granted to that gentleman which his Lordship observed he considered as an underhand proceeding, that he could view it in no other light than a job,—and that he had been deceived in the matter as he would rather have continued Mr. Notan in the situation of Collector with a remuneration of 7½ per cent, could he have imagined that the arrangement which transferred that duty to Captain Shortt would have been so vitiated as he now conceives it to be; that it must besides have a most unfavourable appearance to the Hon'ble Court of Directors as his Lordship in reporting to them what had taken place had informed the Hon'ble court that there would be an immediate saving of 5 per cent, in the former charge for collecting the assessment. His Lordship then appealed to me as a man of honor to say whether I had not fully understood from what he had said at the former interview that it was one of the conditions of the arrangement in question—that the Bench of Magistrate was to make no pecuniary grant to Mr. Notan. His Lordship ended by saying that if the proceeding was not annulled, he would take serious notice of it.

“In answer to these observations of his Lordship I stated that the compensation granted to Mr. Notan had not originated in a motion from me but in an application from Mr. Notan himself to the Bench some weeks subsequent to the decision which transferred his appointment to the Superintendent of Police and that I had done no more than a great majority of H. M.'s Justices (who all viewed the case, particularly under the circumstances brought to their notice in Mr. Notan's application, as one of great hardship) except in being the first, from holding the situation of chairman, to give it my support. That the amount of compensation awarded had been on so small a scale, that there would still be an immediate saving of 2½ per cent,

"and that a saving to the full extent contemplated by his Lordship would ultimately be effected. That with respect to its being a job I had no private end to serve by what had been done and as it would appear in the disbursement side of the assessment account periodically published in the Government Gazette, I respectfully submitted that it could not be considered as underhand. To the appeal made to my honor I answered that I perfectly remembered his Lordship arguing that the private interest of individuals ought always to give way where those of the public were concerned and that the Government could grant no immediate compensation, but that I never understood from anything that had fallen from his Lordship that there was any misunderstanding on the part of his Lordship or anything in the shape of a condition that H. M.'s Justices were to be debarred from granting any compensation if they thought proper to do so, otherwise I certainly should have thought it my bounden duty to have communicated it to the Bench, upon the receipt of Mr. Notan's application."

(Sd.) WM. C. BRUCE,
Chairman of H. M.'s Justices.

"Having thus communicated his Lordship's sentiments, it is of course open to you, should you think proper to revise your decision upon that subject. With respect to myself, I have only to observe that the opinion expressed in my minute upon Mr. Notan's application is unchanged, as I never before heard of an appointment being taken from one person to be given to another, unaccompanied by some compensation, unless it had previously been forfeited by incapacity or misconduct and this in fact is absolutely necessary as I conceive to give proper confidence to public men which they could obviously never have if liable at any time to be turned loose upon the world without some provision."

The granting of the compensation to Mr. Notan was withheld and Mr. Bruce tendered his resignation of the office of chairman.

There were other instances of friction between the several governing bodies as will be seen from the details of the "Lighting" and "Vehar Water Works" project. Coming back to the enactments passed subsequent to 1827, it is recorded that on the 12th August 1836, Mr. Secretary Willoughby, submitted to the Bench a copy of the Amended Regulations which Government intended issuing. The Bench having considered the same, were of opinion

NOTE.—No claim for compensation from the Bench had, it is to be observed been preferred at that time by Mr. Notan nor had the subject come in any way into discussion.

that the amended Regulations would have the effect of transferring from H. M.'s Justices of the Peace, the chief duties now vested in them by Act of Parliament, to the Board to be constituted by the said Regulation and that such a proposal did not meet with their concurrence. Instead of replying to Government, a committee was appointed to consider and report on the same. It has been difficult to trace what this Committee did, but apparently Government without consulting the Bench submitted to the Government of India a draft Act remodelling the functions of the Board. On this action of Government, the Bench recorded the following Resolution:—

“That the Worshipful Bench, record their regret that the Government of Bombay, should have shown so little consideration for, and courtesy towards the Bench of H. M.'s Justices of Bombay, in a matter involving one of the highest privileges conferred on them by Act of Parliament, connected also with some of their Chief duties (that of disbursing the Assessment Fund for the benefit of the inhabitants of the Island) as without any previous communication or intimation of any sort whatever to the Bench, to have sent to Calcutta a draft Act, depriving the Bench of their privilege and duty and leaving H. M.'s Justices to be first made aware of this by the republication in the Government Gazette of the Draft Act, having the above object.”

By Act XI of 1845 a Board of Conservancy, composed of seven members, was established in lieu of the Court of Petty Sessions. This latter was formed by the two Police Magistrates in conjunction with a Justice of the Peace who attended by rotation.

Act of 1845.

The object of creating the Board of Conservancy was to form an executive body for administering the Municipal Fund. With this intention it was laid down (Section X) that, “it shall be composed of seven members of whom the senior Magistrate of Police shall be chairman and the Collector of Bombay, *ex officio*, a member, and the other five members shall consist of two Europeans and three native resident Justices, who shall be elected by H. M.'s Justices, or by such persons as the Government of Bombay may appoint to supervise and control the fund. They were elected for three years, being re-eligible at the expiration of that period if thought advisable. This act was passed for the better collection, management and disbursement of certain public funds and monies, for Police and Municipal purposes, throughout the Islands

of Bombay and Colaba. By this Act the jurisdiction of the Justices of the Peace was extended ; and all municipal taxes paid into the Government Treasury were formed into the 'Municipal Fund' which was placed under the supervision and control of H. M.'s Justices of the Peace in Session assembled, or such persons as the Government of Bombay appointed.

Police ex-
pences.

Under the new Municipal regime thus established, though the Justices of the Peace were vested with the supervision and control of the Fund, the Board of conservancy practically administered it as they thought proper. With the exception of Rs. 45,000 ordered to be annually set apart for Police expenses, they had in reality the entire control over the Fund, and were empowered to make such improvements and carry out such public works as in their discretion they deemed necessary. Though it was not distinctly laid down in the Act, it might be assumed that the duties of this Board were perfectly distinct from those of the Petty Sessions; that they had merely the control of the Fund, and the supervision of the sanitary and other measures for improving the health and comfort of the inhabitants; but that no penal powers, to enforce their orders, were entrusted to them as a body.

Act 24 of 1850, was an act for better defining the special duty levied on Tobacco in Bombay.

Act VI of
1851.

Act VI of 1851, empowered Government to appoint five Commissioners for the purpose of estimating the value of Foras Lands in Bombay, and the improvements thereon &c., and to assess the amount of such estimate in such a way and in such proportion as to them seemed right. The fund to be raised by such assessment was called the "Foras Land Assessment Fund." Unappropriated balances, if any, were paid to the Municipal Fund and any deficit was paid out of the Municipal Fund.

Proposed
Act of 1858.

In 1856, Government proposed to revise the constitution by placing the management of the Municipal affairs in the hands of three Commissioners. Government accordingly addressed the Bench on the subject. The Bench objected to the proposed amendment of the Law and memorialised the Legislative Council accordingly, but with no result.

Act XXV
of 1858.

Act XXV of 1858 which came in force on 7th July 1858 altered the constitution of the Board very materially.

The Act was a very comprehensive one, comprising 33 sections. There were three Commissioners for the purpose of carrying out the provisions of the Act and for the conservancy and improvement of the Town and Island of Bombay. The Governor-in-Council appointed one, and the other two Commissioners were elected by Her Majesty's Justices of the Peace in Sessions assembled. These Commissioners were styled Municipal Commissioners for the Town and Island of Bombay and were a body corporate, had perpetual succession, and a common seal.

Those Commissioners who held no other appointment, were to receive Rs. 10,000 per annum, and those who held any other appointment, or occupation, were to receive Rs. 4,000 per annum. The Commissioners were not subject to any check, or control, on the part of the Justices, except in respect of any work for the execution of which the consent or sanction of the local Government was necessary under any previous acts. Salaries above Rs. 200 per mensem, when newly proposed, were submitted for the approval of the Justices before the sanction of Government was applied for; but when the propositions made were disapproved by the justices, the Commissioners, if they thought fit, referred the matter for the decision of the Governor in Council.

The Act provided for "raising a fund for Municipal purposes," which fund, with certain exceptions was placed entirely under the direction and management of the Commissioners.

The Municipal Commissioners were always rightly or wrongly, reproached for alleged sins of omission as well as commission. The chief cause of the triumvirate system not fulfilling the expectation formed of it was by no means want of will, or energy, on the part of many of those who had undertaken the duties. In the words of the Hon'ble Mr. Cassells; "it has been found that three Commissioners with equal powers, but divided responsibility have almost unavoidably obstructed and counteracted each other. Two of these Commissioners were allowed at the time to hold other appointments; devoting only a portion of their time to the onerous duties of their office. The natural result has been, that the mutual obstructiveness has exceeded the co-operation of the executive body." It was in fact, only a prolongation of the old system

of the Board of conservancy. The division of power, the absence of any individual responsibility, the tedious routine of transacting even the most trivial kind of business, the absence of power to enforce obedience to the laws, tended to keep matters much as they were formerly. The only real difference between the Board of Commissioners, and the Board of Conservancy, was that the former drained the Municipal fund to the amount of about Rs. 24,000 annually more than the latter.

In common justice, however, to the Commissioners, it must be pointed out that the causes of failure in carrying out the provisions of the various Acts and Regulations intended for their guidance and support in the prosecution of their duties, was not simply that mutual obstructiveness which exceeded co-operation, nor was it entirely attributable to any or all of the causes alluded to above. There were others at least as potent, and over which the Municipal authorities had no control; such as want of sewage drainage; rapid increase of population, with an inadequate supply of house accommodation; the chief instruments for carrying out the details of the Acts, viz., the Police which was a separate department, and was not in any way under their orders; and lastly, the very deficient supply of Magisterial authority, to take cognizance of breaches of Municipal laws.

In 1861, a proposal was made to amend the Act of 1858, but nothing definite took place until May 1864 when the amendment of the Act of 1858 was considered section by section. It was originally proposed by the Hon'ble W. R. Cassells seconded by Sir Jamsetji Jeejeebhoy that the entire management of Municipal affairs should be entrusted to one Commissioner who should devote the whole of his time to the work; that he should be appointed by the Governor-in-Council and be removable at pleasure; that his pay be not less than Rs. 2,000 per mensem.

Then there was a proposal by Mr. A. Grant seconded by Mr. A. Cannon that a new Act be passed committing the entire management of Municipal affairs to a Corporation and that this Corporation should consist of Justices of the Town of Bombay.

An amendment by Mr. J. P. Green seconded by Mr. W. Cooper was carried approving of the proposal, that the

powers and duties vested in the present Municipal Commissioners be vested in one Commissioner who should devote his whole time to the work; the Commissioner should be appointed and be removeable by the Justices in Sessions assembled.

Towards the end of 1863, Dr. Leith was commissioned by Government to report on the sanitary condition of the city and his report of the 29th February 1864 placed in a most striking and unquestionable light the urgent want of more effective measures for improving the sanitary condition of Bombay. On 2nd May 1864 Government passed a resolution (No. 807) on Dr. Leith's report in which it sketched a comprehensive scheme for Municipal reform. The opinion of the Bench of Justices was invited, and after much discussion the question was earnestly taken up by the Honourable Walter Cassells, then a Member of the Legislative Council, who prepared and introduced into Council a Draft Act embodying the views of Government while it endeavoured to deal with almost every question of Municipal administration.

The Report of the select Committee was made on the 12th January 1865. The Bill was discussed in Council section by section and sent up for sanction of His Excellency the Viceroy, who recorded his sanction on the 10th May 1865. The new Act II of 1865 took effect from the 1st July 1865.

Act II. of
1865.

Its main features were as follows :—

The Justices of the Peace for the Town and Island of Bombay were created a body corporate with perpetual succession, and a common seal and the power to hold lands.

The Corporation were further empowered to impose taxes and rates, and to borrow money on the security of the same.

The entire executive power and responsibility for the purposes of the Act, was vested in the Commissioner appointed by Government for a term of three years.

He had to lay before the Justices each year a Budget of income and expenditure of the Municipality, which the Justices had the power to revise at a Special General Meeting.

A Controller of Municipal Accounts was also appointed by the Government for a like term, generally to supervise the receipts and disbursements of the Municipal Fund.

A Health officer and an Executive Engineer were likewise appointed by Government to be subordinate to the Commissioner.

The police for the purposes of this Act, were further placed under the control of the Commissioner.

Thus the Bench of Justices having formerly but a small and that only a nominal voice in Municipal matters became a Corporation with almost supreme control over the affairs of the city and one Commissioner with entire executive power and responsibility, took the place of a Board of Commissioners with equal powers but divided responsibility.

By this Act, the following Laws were repealed viz.:—

Acts repealed.

Act XIV of 1856 (for the conservancy and improvement of the Towns of Calcutta, Madras and Bombay.)

Act XXV of 1856 (to comprise in one Act the provision necessary for the assessment and collection of Municipal Rates and Taxes in the Towns of Calcutta, Madras and Bombay &c.)

Act XVI of 1860 (to amend Act XIV of 1856.)

Act XXV of 1858 (for appointment of Municipal Commissioners and for raising a fund for Municipal purposes in the Town of Bombay.)

Act XX of 1861 (to amend Act XXV of 1858.)

Act VIII of 1862 (to abate the nuisance arising from the smoke of furnaces in the town and suburbs of Bombay.)

Act XIII of 1863 (The Vehar Water Works Act.)

Act I of 1864 (to amend sec. VI of Act XXV of 1858.)

By section XII of Act II of 1865 the pay of the Commissioner was fixed at not less than Rs. 3,000 a month.

The Controller of Municipal Accounts countersignature was necessary upon all cheques drawn against the Municipal Fund.

Section XIV fixed the pay of the Executive Engineer at not less than Rs. 2,000 a month.

Section XV fixed the pay of the Health Officer at Rs. 500 a month but did not preclude him from holding any other appointment.

The mode of transacting business was defined in section XXII. Four quarterly meetings were to be held every year.

Upon a requisition signed by five Justices, the Chairman could call a Special General Meeting.

Section 224 provided for the payment of the annual expenses of the Police of the city out of the Municipal Fund; provided that no reduction in the total annual amount required for the maintenance of the force was to be made without the sanction of the Governor-in-Council.

Section XLVII fixed the house rate at 5 per cent which could be raised to 10 per cent per annum. Section LII fixed the lighting rate at 2 per cent in order to provide for the lighting of the public streets by gas. Section 51 authorised the Commissioner to light public streets. Under Section 59 the Vihar Lake and Works vested in the Justices.

In regard to the working of the Municipal Act of 1865 and its introduction into the Legislative Council, the Hon'ble Mr. Lyttleton Bayley, as Chairman of the Bench of Justices delivered the following speech at the meeting held on 26th April 1868:—

“ Mr. Walter Cassels brought the then state of the law and the
 “ inefficiency of the then existing arrangements to the attention of
 “ the Bench. I recollect that I proposed an amendment, though
 “ what it was I cannot for the life of me remember, but the result
 “ was that a committee was appointed consisting of Mr. Cassels,
 “ Mr. Venayekrao Juggonathjee Sunkerset, Colonel Trevor, re-
 “ cently returned to Bombay, and myself. (Mr. James Taylor.—
 “ and Mr. Cowasjee Jehanghier.) Well, if Mr. Cowasjee Je-
 “ hanghier was appointed he certainly did not attend. For a good
 “ many meetings we examined personally the late Major Curtis,
 “ one of the Commissioners, and also Mr. Forjett. I think Mr.
 “ Hutchinson, a third Commissioner, was then in England. We
 “ presented a report in which we made various suggestions to the
 “ effect, chiefly, that the executive control of the Municipality
 “ should be placed in the hands of one individual—and, in fact, we
 “ shadowed forth that scheme which eventually, with some altera-
 “ tions and improvements, Mr. Walter Cassels adopted, when on
 “ 19th August 1864 he moved in the Legislative Council of Bombay
 “ for leave to bring in a bill regarding Municipal arrangements.
 “ That bill was referred to a select committee, which made its
 “ report, on the 1st February 1865, when Mr. Walter Cassels, to
 “ whose exertions in the promoting and passing of that measure I
 “ am sure every resident in Bombay in the present and future
 “ generation will testify—(applause)—moved the second reading
 “ of the bill as amended by the select committee. Discussions on
 “ the bill took place during the whole of that month and also up-
 “ to the 11th March, and I find from the proceedings of the Gov-
 “ vernment of Bombay in the Legislative Department (the autho-
 “ rized publication) that on the 1st February 1865, in moving the
 “ second reading of the bill and in alluding to the fact of the Jus-
 “ tices being a constituted corporation and to the appointment of

“ a Commissioner, Mr. Cassels said :—“ The whole executive
 “ power and responsibility for the purposes of the Act, however, are
 “ concentrated in one Commissioner. His office will certainly not
 “ be a sinecure, and the appointment can only be satisfactorily
 “ filled by a man of great energy and administrative ability.”
 “ Then he proceeded a little further on to say :—“ The Commis-
 “ sioner will annually submit to the Bench a budget of estimated
 “ receipts and disbursements which the Justices will be entitled
 “ to alter or modify as they deem fit, but beyond this complete
 “ control over the finances of the Municipality, the Justices will
 “ have no power to interfere with the executive details of conser-
 “ vancy. They will, it is true, be able virtually to paralyse the
 “ Commissioner by cutting off his supplies, but they will not be
 “ able to relieve him of responsibility without directly assuming
 “ it themselves. I trust that a Commissioner, earnestly desirous
 “ of promoting the health and comfort of the community, may
 “ always meet with consideration from the Justices, and that a
 “ liberal spirit of self-taxation for carrying out the purposes of the
 “ Act may prove the ripeness of the Bench for fuller self-govern-
 “ ment.” Now, gentlemen, it was originally intended that the
 “ appointment of Municipal Commissioner should last five years,
 “ but an amendment was introduced at the following meeting of the
 “ Council, and the result was that four votes were recorded in
 “ favour of three years, and four in favour of five, and it is owing
 “ to the casting vote of the Governor, Sir Bartle Frere, who gave
 “ it in favour of three years, that we are now bound after all that
 “ has happened, and when the efficient working of the Municipality
 “ is apparent to everybody, to pass such a resolution as I shall pre-
 “ sently read to you. (Hear, hear.) Now gentlemen, you have
 “ read the report of the Commissioner and the very able report of
 “ Dr. Hewlett, and also the reports published by those officers in
 “ July last year with reference to the working of the Municipality
 “ in 1866, and I think that no one who has lived continuously in
 “ Bombay for several years can fail to see that we are in a very
 “ different position in a sanitary point of view from what we were
 “ in formerly. I think moreover, we must all agree that the large
 “ power given by the Act to the Municipal Commissioner has not
 “ been—I will not say betrayed, but have not been neglected in the
 “ slightest degree. Nay, when in the first instance he found himself
 “ in a great difficulty for want of money, having succeeded to a
 “ bankrupt exchequer, he did what one might have expected of him
 “ —he acted boldly, and he acted effectively. It has been my good
 “ fortune to preside over your meetings now for a little more than a
 “ year, and it has been a pleasure to see that there is a greater
 “ attendance at the meetings of the Bench now than there was
 “ during the first year after the Municipality as at present consti-
 “ tuted was started. Gentlemen, I will not detain you any further.
 “ We all see what we owe to the Municipal Commissioner and to his
 “ colleagues, and it is of the highest importance now, that as all the
 “ Indian railways are converging to Bombay on the one side, and

“as the passenger traffic by sea to this port is increasing on the other side—I say it is of the utmost importance that it should go forth to the world that the Bench of the Justices of this city is perfectly satisfied with the manner in which the duties entrusted to the Commissioner have been performed, and that the world should know by our reports that the death-rate amongst the inhabitants has fallen in a very considerable degree, from 30 or 35 in the thousand, as it was a few years ago, to little more than 18 in the thousand at the present time; and should know, further, that the discredit cast upon Bombay by the report of the Cholera Commission in Constantinople is proved now to be no longer justified by the facts. (Hear, hear.) Living as we do in glass-houses—as was correctly said by the late Commander-in-Chief in this Presidency in his speech on the Time Bargains Bill—I think it is unnecessary for me to detain you any further by descanting on that which must be apparent to all of us, namely, that we are far better off now than we were a few years ago, when the Municipality in its present form was established, and that when the Act is amended, as it will be in the course of the next few months, we shall start very differently from what we did on the 1st July 1865. The Chairman then read the following resolution:—“That the meeting tenders its cordial thanks to Mr. Crawford and his colleagues for the able manner in which they have respectively contributed to the satisfactory working of the Bombay Municipal Act of 1865, and to whose untiring exertions the marked improvement in the sanitary and other arrangements of the city is mainly to be attributed.”

“Mr. Dosabhoj Framjee had great pleasure in seconding the Chairman’s resolution. After the able and eloquent remarks of the Chairman there was little left to be said by him. The Chairman had stated that under the new Municipal Act large powers had been conferred upon the Commissioner. For his part he had no hesitation in saying that Mr. Crawford had exercised all those powers with considerable tact and discretion. He was happy also to say that Mr. Crawford was the most popular Commissioner the Municipality had ever had, and he did not doubt that Mr. Crawford would be re-appointed to his present post. (Applause.) His labours and their result were clearly described in the annual reports for the last three years, and he could say that these three reports taken together would form a good history of our municipal administration for the last three years, and would afford much useful and interesting information to the municipality of any city in the world. (Applause.)

“The resolution was carried.

“Mr. Crawford—Gentlemen, I really find it difficult to respond to your kindness in the way it deserves. I had looked forward at the outside to a formal expression of thankfulness at the close of three years during which I have laboured, with Dr. Hewlett especially, for the welfare of Bombay; but I never anticipated so warm a congratulation as I have received at your hands now.

" You little know, gentlemen, how a recognition of this kind sinks
 " into the hearts of public servants, and how they are stimulated
 " by such marks of approbation to further successful prosecution
 " of their duty. One thing, Sir, personal to myself, I should be
 " glad to say now. I wish to take this opportunity of thanking the
 " Bench for the consideration it has always shown to me during
 " the time I have had the honour of being associated with
 " it. I am conscious myself that I have at times perhaps strained
 " the consideration which the Bench has shown me. To indivi-
 " dual members of the Bench I feel conscious that I have been at
 " times captious. I can only say that when I have been so the
 " feeling that has prompted me to it was one of earnest anxiety
 " to benefit this town. There has been no personal feeling and if
 " I have ever said anything to offend the feelings of any member
 " of this Bench, I hope he will rest assured that I did not speak
 " from any personal feeling, and that I did not carry away any
 " personal resentment at anything said to me. (Hear, hear.) I
 " will not deny that there have been times when we were perhaps
 " over-sanguine, and that at other times we have been tempted
 " even to feel that the task was too much for us ; and this was espe-
 " cially the case during the earlier part of my administration and
 " towards the middle of last year. We have been labouring not
 " only with an Act which, however well designed, was from its
 " imperfections very difficult to work, but we have been working up
 " to this time a very up-hill game, during a time when Bombay
 " has been gradually sinking from one state of depression to a
 " deeper state of depression, and when people have been wound up
 " to that condition of wretchedness by the state of their own pri-
 " vate affairs, that they naturally could not look at any public
 " questions with very much liberality. I think we have tided
 " over that time now, and I think I see a future for Bombay of
 " which none of us have had any conception. (Hear, hear.) I see
 " a few years hence all the railways of Hindostan converging to-
 " wards Bombay, I see Bombay the centre of the commerce of
 " India, and I see with the help of this Bench opportunities of
 " effecting a vast deal of good and benefitting this large town to an
 " enormous extent—(hear, hear, and applause)—if we only work
 " together with a will as we have hitherto done. I do not conceal
 " from myself that what little success we have had, in the Sanitary
 " Department, has been mainly, if not entirely, due to my friend,
 " Dr. Hewlett. Dr. Hewlett has been indeed my right hand,—
 " more than my right hand—during these three years. It would
 " be impossible for me to describe to the Bench his untiring
 " energy, how at any hour of the day or of the night he is always
 " at his post ; how he has always been ready at any time to make
 " his opinion if possible work in harmony with mine. I cannot
 " let this opportunity pass without publicly thanking him for the
 " good feeling with which he has always worked under me.
 " (Hear, hear, and applause.) I hope, gentlemen, that the re-
 " lations existing between us will last, and I can only say on the

“part of my colleagues generally that they will do all in their power to merit still further the Bench’s recognition of their services. The association of my name with the new markets is the honour of all others I most desired. Those markets have been, I may say, my hobby, and I hope about the close of this year to see public markets in Bombay which will compete favourably with those to be found in any place in England or elsewhere. As to the question of expenditure we must of course always be very careful with it, but one thing we must make up our minds to, and that is, that large towns like Bombay cannot be managed without large funds—(hear, hear),—and though year by year we must try in every little detail to economise and cut down, yet, so long as the rates of labour are so high as we find them in Bombay, so long as it costs so much more to live in Bombay than in Calcutta, it will be unfair to compare us in any way with the “Imperial City.” We are crushed by the weight of the terrible prices of labour and the prices of material, and I fear it will be many years before we recover from this state of things—even if we ever do. But the railway communication will tend to improve these matters, and I do hope that year by year the Bench will see in our reports, in our budgets, and in our attention to the various rules which have been laid down for the efficient financial control of the Municipality, that we are really endeavouring to administer to the wants of this great city in as economical a manner as possible.”

The Act of 1865 was found inexpedient and insufficient for the full and proper management of the City of Bombay, and for the perfect conservancy and improvement thereof, Mr. J. A. Forbes proposed the following alteration in the said Act :—

Proposed
Reform of the
Municipality.

“That in lieu and in substitution of clause II of the said Act, whereby the entire executive power and responsibility is vested in one Commissioner appointed by the Governor in Council ; in terms of said clause II the following be enacted:—

“That the said entire executive power and responsibility for the purposes of the new proposed Act be vested in a “Town Council” of sixteen members, six to be nominated and appointed by Government, six by majority of the votes of the Bench of Justices and four to be especially elected by householders (or occupiers to the amount of Rs. 25 per month rent) it not being necessary for the last mentioned class of members to be Justices of the Peace, the Council to be designated the Town Council of Bombay, to be presided over by the Chairman of the Bench of Justices. The said Town Council shall be provided with a Secretary, who shall receive such allowances out of the Municipal funds to be raised under this proposed Act, as shall from time to time be fixed by the Town Council of Bombay, provided that the said salary shall not exceed Rs. 1,500 per month.

2. "That all the powers which by Act II of 1865 are vested in the Municipal Commissioner for the time being be vested in the said Town Council of Bombay, subject as in such cases provided by the said last mentioned Act, to the sanction of the Bench of Justices.

3. "And whereas by the present Bombay Municipal Act of 1865 the power of nominating all subordinate officers and servants for the purposes of the said Act is vested in the said Commissioner with the exception of the Controller of Municipal Accounts, the Executive Engineer and the Health Officer, be it now enacted:—

"That such power be vested in the Town Council of Bombay to the extent of Rs. 500 a month and when the salary of any Assistant or Subordinate Officer shall exceed the sum of Rs. 500 per month in such case the assent of the Bench of Justices shall be obtained.

"That as regards the said Controller of Municipal Accounts, Executive Engineer and Health Officer whose appointments hitherto have been subject to the selection of the Governor in Council.

"That the said officers if found necessary under this revised Act shall henceforth be selected, nominated and appointed by the said Town Council of Bombay subject to the sanction of the Bench of Justices. That as regards their pay and allowances under the new administration of Municipal affairs, it may become necessary to revise their salaries, it is hereby enacted that their remuneration be fixed by the said Town Council of Bombay, subject to the sanction of H. M.'s Bench of Justices of Bombay." To this there was an amendment proposed by Capt. Hancock.

In commenting upon the proposed Municipal Reform, the *Times of India* of June 24th 1871 says:—

"The object that Mr. Forbes and his supporters have in view, in proposing certain resolutions to be laid before the Bench of Justices, is to effect if possible, a complete financial and administrative reform in the Municipality of this city. The reformers wish to reduce expenditure to the lowest point compatible with efficiency, and to arrange for a complete control being exercised over the Executive, which for the last six years has run riot, to an extent unprecedented in the annals of any city in the world. The amendment proposed by Capt. Hancock will lead to no reform at all. The 40 Justices proposed to be appointed to the Town Council by the amendment, will be the 40 persons who usually attend the meetings of the Justices as at present constituted; out of these, committees will be appointed, the Executive Officers naturally taking care that these committees are carefully selected, and then the Executive will reign supreme and do exactly as they please, with or without the consent of the Council, Committees, or any body else.

"The reforms, on the other hand, proposed by Mr. Forbes and his supporters, will lead to very good results; a Council of 16 will be picked men, as it is presumed that the six selected by Government will be from the ablest officials in the place, that the six selected by the Bench will be their very best representatives, and that the four selected by franchise (which should by the bye, be raised to sixty pound householders) will be inhabitants of the place who are interested in its permanent welfare and prosperity. Surely these men aided by a Secretary (call him Municipal Commissioner if you like) on Rs. 1,500 a month, could carry on the business of the Municipality of Bombay. The reduction of salaries of the Executive from Rs. 3,000 to Rs. 1,500 a month, will carry reductions throughout the whole Department, and the grandeur and style of the reign of Louis XIV (who always said "I alone am Government") will sink into the common duties of providing, without waste and bluster, or extravagance, for the necessities of a rising sea port."

The following petition was addressed by the Bombay Association to H. E. the Governor and President in Council Legislative Department, Bombay :—

"That being deeply interested in the promotion of the good and efficient management of the Municipality of Bombay, your petitioners desire to approach Your Excellency's Council for making laws and regulations with the following representation on the subject of Bill No. 3 of 1872, recently introduced into your Excellency's Council with the object of reforming the Municipal constitution, in order to secure a more efficient administration of the Municipal Estate, and to enable the Corporation to exercise a more direct and complete control over its expenditure.

The Municipal Bill of 1872. Petition from the Bombay Association.

2. "That your petitioners have anxiously watched the administration of the affairs of the said Municipality as constituted under the provisions of Act II of 1865, and have carefully noted the causes that have contributed to the utter failure of such administration. The Hon'ble mover of the Bill attributes this failure to all the three powers concerned in the administration of municipal affairs viz., Government, the Bench of Justices, and the unfortunate selection of the Executive Officers, by Government. The Bench of Justices to whom the supervision and control of the affairs of the Municipality have been entrusted under the existing Act has recorded the following resolution :—

"That six years experience of an ever increasing and unchecked expenditure has satisfied the Bench of its own inability, as it is at present constituted, to give to the Municipal finances the constant and effectual supervision contemplated by Act II of 1865.

3. "The Justices have therefore asked Government to relieve them of the duties imposed on them, and to transfer all financial powers vested in the Bench and the Municipal Commissioner to a Town Council of sixteen members.

4. "With a view to provide a remedy for a recurrence of the evils resulting from the past mismanagement of the affairs of the Municipality, Government have proposed a new constitution for the government of the affairs of the city of Bombay to be vested in a corporation consisting of 80 Members, of whom no less than 64 are to be resident Justices of the Peace and 16 rate payers, contributing to the Municipality at least Rs. 50 per annum as Municipal rates and taxes. Of the 64 Justices, 32 are to be nominated by Government and a like number to be elected by the Justices from their own body. Of the 16 rate payers not being Justices, 8 are to be nominated by Government and a like number to be elected by a small constituency of house-owners.

5. "Your petitioners apprehend that the proposed constitution is not calculated to effect the reform which is desired.

6. "No valid grounds can be urged for selecting members of the Municipal Corporation exclusively from the Justices of the Peace. Your petitioners submit that the members of the Corporation should be selected by Government and elected by the ratepayers from a much wider field, comprising different classes of the inhabitants of Bombay and not from the limited class of gentlemen on whom Government have been pleased to confer the Commission of the Peace as a mark of honour and distinction without reference to their qualifications or aptitude for discharging the onerous and responsible duties of municipal managers and supervisors.

7. "Your petitioners venture to point out to your Hon'ble Council one chief cause to which the mismanagement of the municipality is attributable. The ratepayers of Bombay, who annually contribute to the municipality $\frac{1}{3}$ of a million sterling in rates and taxes, have hitherto had no voice whatever in the selection and appointment of the members of the Corporation. Full power and authority to control and superintend the management of municipal affairs have, during the last 7 years, been vested by the legislature in a large and irresponsible body like the Justices, who have been appointed for life, and are in no way responsible to the tax payers. Their management has resulted in disastrous failure, and a burden of debts amounting to nearly a million sterling. The time has arrived for your Hon'ble Council to consider the advisability of providing a better management and a directly responsible Government, calculated to prevent a recurrence of the evils from which the municipality has suffered so much. The obvious remedy, your petitioners respectfully submit, is to entrust the management of the municipality to the representatives freely chosen and elected by the ratepayers. By this means full responsibility will be secured, and if the elected members of the Corporation neglect their duties, or fail to give satisfaction to their constituents, it will be in the power of the latter to dispense with the services of the former,

and substitute such representatives as would realise their hopes and fulfil their reasonable expectations. With this view your petitioners venture to solicit your Hon'ble Council to substitute a representative constitution in lieu of the proposal contained in sections V, VI, VII, and VIII of the draft bill, which is open to the serious objections urged by your petitioners. The constitution which your petitioners propose, is simply an extension of the representative principle, conceded to an extremely limited extent in section VII of the draft bill, which authorizes Government to nominate eight members of the Corporation, and empowers a particular class of ratepayers to elect a like number. Your petitioners respectfully submit that the number of members of the Corporation proposed to be elected by the ratepayers bears so small a proportion to the number to be appointed by Government and by the whole body of Justices, that the concession will, practically, be of no value or significance whatever. The eight elected members will be a mere nonentity and will not be able to cope with, or exercise any influence over, so large and overwhelming a majority of the members of the Corporation, consisting of 72 persons selected by Government and by the Justices. It will be a mere semblance or shadow of representation instead of a reality. Even as an experimental measure, the small and insignificant representation, which Government propose will be altogether nugatory, in as much as the experiment will not have a fair trial.

8. "The Hon'ble Mr. Tucker, who introduced the bill on behalf of Government, admitted that there was an earnest desire on the part of an influential section of the public for an extension of the elective principle for the Government of the City, and readily acknowledged that he was not adverse to the introduction of self Government of the natives of India. He declared he would be very glad, indeed, to see self Government extended and yet your petitioners regret to find that this Hon'ble Member of Government did not feel disposed to grant anything like a fair extension of the elective principle in the Municipal Government of the City.

9. "The Hon'ble Member did not adduce any facts or reasons in support of his objection but simply declared his belief that this was a matter which, before it could be widely adopted, required the most careful consideration. With reference to the Hon'ble Mr. Tucker's remark that self Government should, not be extended "by sudden jumps or leaps in the dark, but by careful progression," your petitioners beg to draw the attention of your Hon'ble Council to the fact that the inhabitants of this great emporium have, for several decades, been trained in the art of self Government, and have been accustomed to the exercise of the privilege of election in regard to the conduct and management of local institutions.

10. "In support of the claim which your petitioners have ventured to prefer on behalf of their fellow citizens, your

petitioners are happy to be able to adduce the testimony of your Excellency's predecessor, Sir Bartle Frere, who has served in some of the highest offices in India. In an able address on public opinion in India, delivered before the East India Association of London, in June last, he has shown that representative Government, far from being contrary to the genius of the natives of India, is in reality a developement of the ancient Indian system. He has advocated the rehabilitation of the existing village councils for the conduct and management of the affairs of their respective villages, with power to send up representatives to the District Council, who should also elect members to serve in the Provincial Councils, which he recommends Government to establish in every province. He further proposes that "if two elected members were sent up from each provincial division—for example, suppose you had 10 in all sent up to the local Legislative Council, they would in every way strengthen the Council, and give additional weight to its proceedings."

And again he says—

"I do not think you need be in the least afraid of having in the Legislative Councils of Calcutta, Bombay and Madras, Lahore and Agra ten or dozen men who have been freely elected by the Provincial Councils, or that you need apprehend their proving disloyal to the English Government."

"If Sir Bartle Frere sees no objection to the principle of representation being applied to the highest Council in this Presidency, your Hon'ble Council will, your petitioners sincerely trust, be favourably inclined towards the moderate demand which they are now making in regard to the management of a concern which affects the pecuniary interests of their fellow citizens.

11. "In corroboration of the claim to adequate representation, which your petitioners beg to urge on behalf of their fellow citizens, they crave leave to cite the high authority of the Supreme Legislature of India, which has recognised and conceded that right to the Municipality of Lucknow by Act XVIII of 1864 and to the municipalities of the North-West-Provinces by (N.-W.-P.) Act VI of 1868. With reference to the Policy adopted by the Government of the North-West-Provinces in carrying out the last mentioned Act, your petitioners quote the following important passages, which occur in the official report of the administration of the N.-W.-Provinces for the year 1868-9:—

"The number of these bodies corporate on the 31st March 1869 was 63. The majority were in existence before the passing of the new Law. (Act VI of 1868.) Some were created after the promulgation of the Act, and in all, steps have been taken to adopt the constitution of the Committee to the law as at present in force, and to regulate the appointment of members on as representative a basis as possible * * * it was thought sufficient to indicate generally, the Lieutenant-Governor's preference to a system of election wherever the arrangement might be unobjectionable, and

to leave the result to the discretion of those best qualified to know and appreciate the requirements of the towns under their charge * * * * *”

12. “If the Municipalities established throughout the N.-W.-Provinces, which excepting Meerut, yield an aggregate income of only 13 lacs of rupees per annum, being 40 per cent of the single Municipality of Bombay, are allowed in 48 towns the privilege of electing two thirds, and in some cases a less number of the members of the Municipal Committees, and if a sense of independence and self Government has been generally aroused and good results are expected in that part of India, how much more must the inhabitants of this great emporium far in advance of their fellow countrymen of the North-West and yielding a Municipal revenue of more than double of the whole income of the Municipalities in those provinces, be entitled to have a more extensive share in the administration of their Municipal affairs. Again, Act XVIII of 1864 for the Municipality of the Town of Lucknow provides that the Municipal Committee shall consist of 25 members of whom 6 shall be *ex officio* members, and that the non-official members of the said Committee shall be elected annually by and from amongst the inhabitants of the city.

13. “The above mentioned facts and arguments, which your petitioners have urged, will, your petitioners trust, be deemed sufficient to induce your Hon’ble Council to grant the direct representation which your petitioners have asked on behalf of the rate payers of this city.

14. “With regard to the proposition of members to be selected and nominated by Government, and those elected by the rate payers, your petitioners solicit, your Hon’ble Council to follow the Municipal Improvements, (N.-W.-P.) Act VI of 1865, which directs that the official members shall not be more than one third of the total number of the Municipal Committee. Your petitioners, therefore, propose that sections V, VI and VII, be altered so as to empower Government to appoint 27 members of the Corporation, leaving the remaining 53 members to be elected by the rate payers.

15. “Your petitioners submit that the constituency, on whom by section VII of the new Bill, it is proposed to confer the Municipal franchise, is not only small, but is limited to one fourth of that particular class of rate payers who are owners of landed property. Although your petitioners do not at present consider it advisable to ask your Hon’ble Council to lower the pecuniary value of the franchise, which is fixed at Rs. 50 per annum, yet your petitioners cannot see just or reasonable ground for excluding all other classes of rate payers from participating in the election of representatives. Your petitioners, therefore, solicit your Hon’ble Council to frame the franchise on a fair and just principle, so as to confer on all classes of rate payers the right of voting in the election of members of the Corporation. Unless

this is done the representation will be open to the grave objection of being partial and confined to a small number of landed proprietors, who contribute only a portion of the income of the Municipality, and who cannot be said to be entitled to the monopoly of representation to the exclusion of all other classes of the people who contribute the bulk of the income. Your petitioners therefore solicit your Hon'ble Council to confer the franchise on all classes of rate payers who contribute rates and taxes to the minimum amount of Rs. 50 per annum, and to provide for the division of the city of Bombay into 6 or more wards for the election of members of the Corporation, and for apportioning an adequate number of members to each ward, according to the number of persons rated, and the aggregate amount of the sums contributed by the rate payers residing in each ward.

16. "The objections urged by your petitioners against the constitution of the Corporation apply with greater force to the Town Council proposed to be formed with the object of securing the due administration of the Municipal Fund, consisting of a Chairman and five members to be nominated by Government and six members to be elected by the members of the Corporation. As the Chairman is allowed a second or casting vote, there must be a majority of Government nominees, and the nominees of the Bench and rate payers will be in the minority in such Council. The proviso in section XXIII which directs that two of the members of the Council to be nominated by Government and two to be elected by the Corporation, does not guarantee the appointment of a single member elected by the rate payers. As the Town Council is to serve as a working Committee of the whole Corporation. Your petitioners submit that the right of electing all its members should be vested in the Corporation and the Council should be allowed to appoint its own Chairman.

Clause 17 of the petition suggested that the choice and fixing the remuneration of Officers should be vested in the Corporation.

Clause 18 proposed that a clause be added to section IX of the proposed Bill directing that the executive officers and all other persons, employed in the service of the Municipality should be disqualified for appointment as members of the Corporation.

Clause 19 pointed out that the Bill was objectionable in the following:—(1) by removing the existing exemption of ponies under 12 hands in height; (2) imposing a toll of 2 annas on each labour cart entering Bombay by the Mahim and Sion Causeways; (3) increasing 50 per cent the tax on labour carts plying in the Town and Island of Bombay. The proviso in the Act of 1867 limiting the levy of the lighting and Police rate at 2 and 3 per cent has been expunged from the proposed Bill and no Bill has been assigned to the levy of these rates. By withdrawing their contribution of Rupees one lac, Government have made the Municipality liable for the whole amount of the Police expenditure and have further reserved to themselves the right of fixing

that expenditure from time to time and section LXXXVI makes it obligatory on the Corporation to impose such a rate as may be sufficient to provide the whole amount of such expenditure.

The petition then referred to the obligatory duties of the Corporation; the appointment of Auditors and concluded by pointing out that far from giving fair play to self Government, the new Bill is so framed as to deprive the Corporation of free scope and liberty of action.

The *Bombay Gazette* of December 7th 1870, had the following leaderette regarding the Municipal Commissioner of those days:—

“To-day a portion of that ‘Mob of plutocrats—the rate payers of Bombay’ will meet under the rule of pure *geist*, and we shall see the Municipal Commissioner wield that ‘absolute sceptre of righteousness’ ‘the inspissated force of a whole city.’ In plain language, the Bench of Justices will meet, by virtue of the provisions of the most foolish of Municipal Acts and the Municipal Commissioner will display his ‘most splendid *E’lan*’ on the occasion. We are not responsible for the grand language we have quoted. Our readers will remember that it shines like oriental gems in the wonderful letter signed ‘George Bridwood M. D. Edinborough, late sheriff and J. P. of Bombay.’ We are glad to learn from so competent a judge, and the community will also be glad to learn that Bombay is ‘more wealthy even than London in effective capital,’ but not so glad to learn that ‘the whole wealth and motive power’ of this wonderful place is ‘in the vice like grip of one strong man responsible only to the State, to do with it all that the light of the age imperiously dictates.’ Rather a gloomy look out for the said plutocrats who would be better off, perhaps, if the one man were really responsible to the State or to any body or thing. Of course it would be impertinent, not to say irreverent in us to dispute with a man so remarkable for sober judgment and exact expression; but with lamentations over our own blindness, we confess an inability to perceive the correctness of Dr. Birdwood’s description of the Municipal Act, the working of that Act, and of the epithets applied to rate payers; while we tremble to think of the vision seen by this seer. ‘If I said what I thought the Municipal Act would exactly do, say before the Bicentenary of Plassey,’ exclaims our enthusiast, ‘I should perhaps be hanged for treason or spat upon as an unmitigated communist. Nevertheless, a clean people never can be slaves.’ What dreadful future does this foretell? What do the capitalists think of it? Treason and Commission—large words, my masters, large things and all to flow out of the great Act which should be properly styled Sir Bartle’s folly. The success of the Act, ‘has been simply stupendous’—measured in lakhs it has, and bids fair to mount up still higher. Since for our sins, the light of Dr. Birdwood’s countenance was withdrawn, those effective capitalists who pay Octroi duties have added their rupee to the

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"pile ; and none can say whose turn may come next. On the whole
 "Dr. Birdwood is inimitable. 'A disappointed rival' of Mr. Craw-
 "ford, yet just to him, the apologist of Yeshwantrao and the Knight
 "of Mr. Pratt, a profound admirer of Sir Bartle Frere who did not
 "appoint the scientific doctor Municipal Commissioner ; a believer
 "in the fable that Bombay is richer than London, and an adorer
 "of the Municipal Act, how, when we put all these things
 "together, can we help regarding with awe and amazement his
 "rhapsody in the wonderful letter to the *Overland Mail*.

"But we must not forget the 'mob of plutocrats' who meet
 "to day. Although, in consequence of a lamentable but not alarm-
 "ing incident at Vehar, it is quite possible that the loan project will
 "be withdrawn, yet it is highly desirable that those plutocrats, who
 "do not relish debt as one of the effects of a rule of pure *geist*,
 "should assemble, and see that the loan is driven over the Loire.
 "Perhaps they will remember that, in the opinion of a late brother,
 "they are a mob, that their place of meeting is likened into the
 "nursery and the school room, and that the final cause of their
 "existence is to be strongly governed, which means strongly taxed ;
 "and perhaps they will, 'for one occasion' only, show a little
 "of that public spirit, so dear to Dr. Birdwood, but which he and
 "his school will assuredly denounce if it takes the form of insisting
 "on economy and of demanding relief from grinding taxation.

Indignation still prevailed as will be seen from the following preface of a speech which Mr. Knight was not permitted to deliver at the Bench meeting :—

"The Bench of Justices have at least one man amongst them,
 "who never addresses them unless he has something to say
 "that ought to be said and ought to be listened to ; who never
 "twaddles ; and who never even attends their meetings, unless
 "there is important work to be done, finding those meetings into-
 "lerable from the amount of talk which takes place at them. For
 "as one man finds, his dissipation in billiards, and another at the
 "theatre, so there are men in Bombay, it seems who take it out
 "in the mild way of twaddling at the Bench upon every subject
 "that comes before it. Instead of its meeting being conducted
 "conversationally almost indeed in silence, and the work pushed
 "through in an earnest quiet way, its members are bored to
 "death by men who will talk, and enquire, and object, and talk,
 "again and again, upon questions of not the least practical interest to
 "any one. To listen patiently to these gentlemen, is simply impos-
 "sible. They talk upon everything, enquire upon everything, object
 "to everything, and make the meetings simply intolerable to men
 "who are impatient of such displays. These talking apparatuses
 "are simply my horror. They are wind bags everyone, and have
 "about as much real insight into our Municipal difficulties as the
 "peons who stand gaping at them from the doors. And when
 "a member of another stamp who would never speak at all ; if he
 "could avoid doing so, rises to address the Bench, these twaddlers

"at once insist that he shall be degraded to the level of themselves.
 "They have no objection to his pouring a flood of rambling
 "nonsense upon them for three hours on a stretch so long as it is
 "poured in the way 'in which other gentlemen speak,' but they
 "will not hear a carefully prepared speech read on any account.
 "And yet what can be more preposterous than to require a Justice,
 "who, like myself, does not speak in public for ten years together,
 "to attempt to treat a difficult and intricate subject in an ex-
 "tempore speech? Everybody I suppose can twaddle who tries,
 "and a great many can never do anything else; but it is a
 "positive disgrace for a body of men, like the Bench, to come to a
 "deliberate resolution that will listen to nothing else. For that
 "is the real effect of this attempt to exclude written speeches
 "from their debates. The House of Commons, which is full of
 "practised debaters, may, without disadvantage perhaps follow
 "a rule of this kind. But for the Bench of Justices to adopt it,
 "where not one man in six can speak two consecutive sentences
 "extempore in good English, is simply to hand the Bench over
 "as an exercise ground to the twaddlers. Mr. Justice Bayley
 "as Chairman of the Bench saw this plainly and ruled the point
 "against them while the present chairman has played into their
 "hands. The Bench owe him no thanks for doing so, and I shall
 "probably move it on an early occasion, to adopt a standing
 "order that the precedent of 1868 be followed in all cases. For
 "wiser would it be for the Bench absolutely to refuse to listen to
 "any speaker whatever, until he gave assurance that he had
 "carefully prepared his speech beforehand. I publish this
 "speech, in the *second* place, because of its importance. It matters
 "little what the men of to-day think about it. I have laid bare
 "therein the *real* cause of all our embarrassments. The weak
 "imitation of everything English, as the perfection of wisdom
 "to which we are so much given in India, was allowed to betray
 "the council in 1865 into adopting the *direct rule* system of
 "taxation for this Island, in place of the old indirect way of
 "Town Duties. The working of the system has resulted in deadly
 "oppression of the people, and it is now suddenly disclosed that
 "there are 7,500 distress warrants running against them. I affirm
 "advisedly, that if the people had any reasonable hope of doing
 "so successfully, they would be justified in resisting by force
 "the execution of these warrants. For they are an outrageous
 "fraud. Were H. E. Sir Seymour Fitzgerald well advised, he
 "would order the quashing of the whole of these warrants as
 "a fraud upon their victims. Instead of forcing these 7,000
 "miserable men to sell their homes and furniture to meet these
 "warrants, the community owes them restitution of $\frac{9}{10}$ of what
 "has been wrung from them in past years. Mr. Crawford, knowing
 "about as much of the principles of taxation as of the refine-
 "ments of scholastic theology, thinks to remedy the evil by what
 "will merely intensify it, namely, letting off the class of

Oppression of
 the people.

"occupiers altogether, and fastening everything upon the house owner. He is simply proposing to aggravate the fraud we are already committing. Let him stick to the work he does so effectively, and leave the finance part of the business to others. He does not understand it. It is the *poor* house owners of Bombay, not your Munguldas Nathoobhoy of course, who are filling the town with outcries; and what wonder? I mention a single fact. Of the whole 22,000 house owners of Bombay, nearly 16,000 are owners of property that yield less than 40 rupees a month, and it is upon a class like this that we are cruelly fastening all the rates and taxes of the place. It is a gigantic fraud. The result of the debate is satisfactory, only in one respect, that the cries of these men have been so distinctly heard. Mr. Forbes' error is that he has mistaken the real cause of the distress. The constitution may be changed once a week for the next 10 years; Mr. Crawford dismissed, and a dozen after him; and while your fiscal system remains what it now is, the cry of the people will still go up to heaven. You can tax a community like this, only in one way, that is by taxes upon commodities; and the twaddlers will tell you it is 'contrary to the axioms of Political Economy,' and Mr. Forbes believes them. A system of direct taxation based upon the exemption of the many is simply *fraud*, as will by and by be discovered, even in Bombay."

The *Bombay Gazette* of 16th November 1870 in its reference to the proposed Municipal reform stated :—

"We have the honour to suggest that the Justices, at least the European Justices, should take the Municipal Commissioner at his word and retire from the Bench altogether. It would be the more dignified mode of proceeding. A public functionary who considers that six hours is sufficient to dispose of a budget authorising the expenditure of 35 lakhs, plainly regards the Bench as a mere court in which he may register his decrees. Impatient of criticism, he deals with the members of the Bench who either oppose or criticise him as if he were the master and they were the servants. At the meeting last week, after describing the principle of speech as a great 'flow of oratory' full of 'general statements and general assertions,' he said the Bench wanted to shift the responsibility of the expenditure on to his shoulders and politely added:— 'you have to take that responsibility upon yourselves, and that responsibility you *shall* take upon yourselves.' Not content with this he subsequently denounced opposition, generally, and said, the time of the Bench was taken up by wild and unsupported assertions; while Dr. Hewlett did not think it improper to condemn all remarks not in harmony with his views as 'mere verbiage.' After displaying this tolerant disposition last week, the Commissioner on Monday, finding his patients bore it so well increased the dose, taunted the Bench with lack of public spirit, and suggested that all who would not attend their civic duties should retire from

‘ the Bench ; attending their civic duties, meaning, in the opinion of
 “ the Commissioner voting his estimates munched. Considering
 “ how the Bench is without any remedy, we think the best plan
 “ would be to frame a list of Justices who will entirely agree with the
 “ Commissioner and allow the rest to take his courteous advice and
 “ retire altogether ; and that in future Government ; which does
 “ not care a straw about the Municipality, should, before appointing
 “ any gentleman a Justice of the Peace, make him sign a declaration
 “ that he will be faithful and loyal to His Majesty the Commissioner
 “ and never open his lips to utter a word contrary to the only sacred
 “ and orthodox opinions on duty taxation, and expenditure, to wit
 “ the opinions of the Municipal Commissioner.

“ Now we have heard something about ‘ wild and unsupported
 “ assertions.’ Of course a gentleman like the Commissioner is
 “ infallible, never deals in assertion of that character. Let us see.
 “ Dr. Dallas made a strong point in his ‘ flow of oratory,’ ‘ mere
 “ verbiage,’ and ‘ wild ’ speech, by pointing out that the Muni-
 “ cipal expenditure of the united Kingdom is under 6,000,000 pounds
 “ or about 17 times what we spend in Bombay. The comparison is
 “ not exact, because in an municipal expenditure the amount paid for
 “ watering the roads and other public purposes is not separated from
 “ the house supply. But look how the Commissioner deals with the
 “ statement. He boldly asserts that no water rate, no police rate
 “ no halalkhor cess, that is, no sewer rate, is paid by the English
 “ municipalities. The exact contrary of this truly ‘ wild and un-
 “ supported assertion’ is the case. The house holders and house
 “ owners, where the rates are compounded for or where
 “ special covenants are made pay water and police rates,
 “ sewer rates, lighting rates, and improvement rates. The Commis-
 “ sioner denies the accuracy of this statement, but when he has
 “ the happiness to keep his house in England, as he may have before
 “ this time next year, his cheque book will contain ample evidence
 “ of the supports on which the assertions exist. This is only an
 “ incidental point and we only make it to show the superb audacity
 “ of the Commissioner when he wants to dispose of a tough opponent.

“ There is another point which calls for remark. The Commis-
 “ sioner is very sublime in the question of duty. He not only
 “ tells the Bench, they *shall* seat in a particular fashion, but he
 “ lectures them on their duty and taunts them with a look of
 “ public spirit. His speeches, indeed, forcibly recall the tone of
 “ the famous letters on Bombay to *The Times* and the *Friend of*
 “ *India*. And here we may remark that the Commissioner’s
 “ ways of dealing with adversaries are infinite, and that one of
 “ them is to wit a critic with speaking popularity, and to describe
 “ himself as fatally bound to be unpopular. We must say that
 “ for an unpopular man, if he be one, he has had a great deal of
 “ his own way. No popularity of course, was conferred by the
 “ roseate and erroneous description of Bombay in the journals to
 “ which we have referred ! Having established the fact that he
 “ is not popular, he became tragic. I have to do my duty also

“like Dr. Dallas. I have to tell you a very plain truth. * * *
 “* * It does not follow because trade is dull that the Corpora-
 “tion is to fail in doing its duty. * * * * The Cor-
 “poration has to do its duty, and that duty has no more to do
 “with the state of trade of Bombay than Bombay as to do with
 “Kamschakta—or, he might have added, than economy has
 “to do with Municipal administration. Surely the Justices must
 “have trembled and felt themselves to be miserable sinners when
 “they heard these awful common places ! A Commissioner must
 “do his duty, like Dr. Dallas, or any other mortal, and a Corpor-
 “ation must do its duty. These be new truths, with a vengeance.
 “We have still to learn what is the duty of the Corporation, and
 “what is the duty of the Commissioner. The first we have seen
 “counts in the opinion of the Commissioner, in the silent
 “adoption of his views. The Commissioner’s idea of duty may be
 “very correctly and compendiously stated, it is to get possession
 “of the largest sum of money which can be obtained by taxation
 “and to spend it in all manner of ways. That is plainly the
 “Commissioner’s idea of duty.

“Even the finance Committee has no legal existence, while in
 “its composition it is only the municipal administration over
 “again. But the truth is and is known to be, that the Municipal
 “Commissioner is responsible for the oppressive taxation and
 “extravagant expenditure ; that no amount of Bench Meetings
 “will hide the fact, and that the head and front of the offending is
 “the Government of Bombay, who cannot or will not control the
 “officer whom they have appointed. These are the natural conse-
 “quences of setting up a sham self government which those who
 “have succeeded to its founders *dare* not make real.

Act of 1872-8.

After a few years existence, the Act of 1865 had to be amended, and when the Act of 1872-78 came into existence things had quieted down. This act again altered the Municipal Constitution and for the first time the designation of the “*Municipal Corporation of the City of Bombay*” came into existence and continues till this day. The Corporation under this law consisted of 64 members, elected as under :—

32 by Ratepayers.

16 by H. M.’s Justices of the Peace.

16 were appointed by Government.

The mode of holding meetings were also altered, as specific directions were laid down in the new law as to the number of meetings that were to be annually held. The prescribed number was four but power was reserved to call special meetings on a requisition to the chairman signed by 16 members of the Corporation or four members of the

Town Council. Twenty Corporators formed a Quorum at a Quarterly meeting, but in regard to a Special General Meeting, the number was twenty-five.

The formation of a Town Council was introduced by this Act and consisted of 12 members for the purpose of securing the due administration of the Municipal Fund. Eight of these members were elected by the Corporation and four members were appointed by Government. The Town Council met for business every week and each member was paid a fee of Rs. 30 for each weekly attendance.

Formation
of the Town
Council.

Provision was made for the appointment of a Secretary on a salary of Rs. 500 a month, which pay was subsequently increased to Rs. 700 a month, with Rs. 500 as a personal allowance.

Section 32 provided for the appointment of Auditors.

The pay of the Commissioner was fixed by this Act at not less than Rs. 2,000 or more than Rs. 2,500 a month. The pay of the Executive Engineer was likewise fixed at not less than Rs. 1,200 or more than Rs. 1,500 a month. The Health officer was precluded from holding any other appointment, but his pay was fixed at not less than Rs. 1,200 or more than Rs. 1,500 a month.

The Municipal Fund was applied towards objects connected with the public safety, health, instruction and convenience, public festivities and rejoicings, and maintenance of the Police. The annual expenses of the Police was determined by Government and any portion thereof, on the requirement of Government had to be paid out of the Municipal Fund.

The tax on fire Insurance Companies was fixed at an annual sum of not less than Rs. 500 or more than Rs. 1,000 as determined by the Town Council.

Section 69 fixed a consolidated rate of not less than 8 per cent or more than 12 per cent per annum.

The water rate was not fixed but left to the discretion of the Corporation.

The Halalkhor rate was fixed at 3 per cent per annum.

Then finally comes the Bill which subsequently became Act III of 1888 at present in force.

The Corporation went into a committee of the whole house and considered the Bill section by section. Major Selby took a great deal of interest in the proceedings and the Hon'ble Mr. P. M. Mehta C. I. E. very ably represented the interests of the Corporation in the Legislative Council. Sir Charles Ollivant was placed on special duty to frame this Act.

Act III of
1888.

The Bombay Municipal Act III of 1888, came into force in the second half of that year. The Municipal authorities charged with carrying out the provisions of the Act are (a) the Corporation (b) a Standing Committee and (c) a Municipal Commissioner. On and after the 1st April 1889 the Corporation consisted of 72 members as follows:—

- 36 elected at Ward Elections.
- 16 Do. by Justices.
- 2 do. do. Fellows.
- 2 do. do. Chamber of Commerce.
- 16 appointed by Government.

One ordinary meeting is to be held in each month. The meeting of March is to be held not later than the 20th of that month. Special meetings can be called only on a requisition signed by not less than 16 councillors or by not less than 4 members of the Standing Committee. Twenty members forms a Quorum.

At least 7 clear days notice has to be ordinarily given of every meeting, except in pursuance of a requisition signed by 4 members of the Standing Committee in which case a notice of not less than 3 clear days is sufficient.

The Standing Committee (formerly it was called the Town Council) consists of 12 members, eight elected, by ballot, by the Corporation and 4 appointed by the Government. Each member receives a fee of Rs. 30 for each weekly sitting.

The Standing
Committee.

A General election of Councillors is held every three years. The designation of the Chairman of the Corporation has been changed to that of President of the Corporation. The designation of the Controller of Municipal Accounts has been changed to that of Chief Accountant. Likewise the designation of the Clerk, Bombay Municipal Corporation and Secretary, Town Council, has been changed to that of Municipal Secretary. The Municipal Commissioner is ap-

pointed by Government for a renewal period of three years. The pay of the Commissioner is fixed at Rs. 2,000 to Rs. 2,500 per month which can be raised after 3 years service to Rs. 3,000 per month.

Subject to confirmation by the Governor in Council, the Corporation can at any time appoint a person to be Deputy Municipal Commissioner on a salary not exceeding Rs. 1,500 or less than Rs. 1,200 per month. The obligatory duties of the Corporation are laid down in section 61 and are as under :—

(a) The construction, maintenance and cleansing of drains and drainage works, and of public latrines urinals and similar conveniences ;

(b) the construction and maintenance of works and means for providing a supply of water for public and private purposes ;

(c) scavenging and the removal and disposal of excrementitious and other filthy matter, and of all ashes, refuse and rubbish ;

(d) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances ;

(e) the regulation of places for the disposal of the dead and the provision of new places for the said purpose ;

(f) the registration of births and deaths ;

(g) measures for preventing and checking the spread of dangerous diseases ;

(h) the construction and maintenance of public markets and slaughter houses and the regulation of all markets and slaughter houses ;

(j) the regulation of offensive and dangerous trades ;

(k) the entertainment of a Fire Brigade and the protection of life and property in the case of fire ;

(l) the securing or removal of dangerous buildings and places ;

(m) the construction, maintenance, alteration and improvement of public streets, bridges, culverts, causeways and the like ;

(n) the lighting, watering and cleansing of public streets ;

(o) the removal of obstructions and projections, in or upon streets, bridges or other public places ;

(p) the naming of streets and the numbering of premises;

(q) maintaining, aiding, and suitably accommodating schools for primary education;

(r) the maintenance of a Municipal Office and of all public monuments and other property vested in the Corporation.

The Corporation may in their discretion provide either wholly or partly for all or any of the following matters (Sec. 63) viz :—

(a) public vaccination;

(b) educational object other than those set forth in clause (q) of sec. 61;

(c) constructing, maintaining or aiding libraries, museums and art galleries;

(d) constructing or maintaining public parks and gardens and botanical and zoological collections;

(e) planting and maintaining trees on road sides and elsewhere;

(f) survey of buildings or lands;

(g) registration of marriages;

(h) taking of a census;

(i) preparation and presentation of addresses to persons of distinction;

(k) any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.

And with the previous sanction of Government the Corporation may make such contribution as they think fit towards any public ceremony or entertainments in the city.

The tax on Fire Insurance Companies has been abolished and in its stead a tax of not less than three quarters per centum is levied in order to provide for the expense necessary for the entertainment of a Fire Brigade and the protection of life and property in the case of fire.

The General tax has by this Act been fixed at not less than 8 per cent or more than 12 per cent of the rateable value of properties in Bombay.

In the same way the Halalkhor tax is not to exceed 3 per cent. There is no limit to the water tax. Sec. 140 (a) says “a water tax of so many per centum of their rateable value as the Corporation shall deem reasonable

with reference to the expense of providing a water supply of the city shall be levied."

Provision is also made for the appointment of Auditors and their remuneration (for two of them) is fixed at Rs. 10,000 per annum.

The pay of the Executive Engineer and that of the Health Officer remain the same as under the Acts of 1872-78, but in regard to the latter a special enactment was passed raising the pay to Rs. 2,000 per mensem.

The Corporation has the power to appoint a Secretary for the Joint Schools' Committee and clerks &c. A School Fund is also established.

It is the duty of the Corporation and Government each to appoint four members on the Joint schools' Committee.

The Corporation can appoint a Committee for other educational purposes and a Hospital Committee.

Provision is made for the appointment of a Deputy Municipal Commissioner.

Section 518 gives power to Government to enforce the carrying out of any of the provisions of sections 61, 62, 134, 225, 434 and 438.

Section 520 empowers Government to enforce recovery of the said expenses.

Section 519 gives power to Government to enforce repairs &c., of Vehar Water Works.

Under section 522 the Police Commissioner is to co-operate, as far as may be, with the Municipal Commissioner for carrying into effect and enforcing the provisions of the Act and for the maintenance of good order in the city.

Sections 471, 472 and 473 lay down the penalties for failure to comply with any of the provisions of the Municipal Act, the lowest penalty is ten rupees and the highest one thousand rupees.

Section 121 provides for special funds to be created with the approval of the Corporation. The borrowing powers of the Corporation are referred to in sections 106 to 110. The Municipal fund is referred to in section 111.

The Municipal Commissioner, the Municipal Secretary and one member of the Standing Committee have to sign

cheques on the Municipal Treasury. In the absence of the Commissioner, two members of the Standing Committee, and the Municipal Secretary sign the cheques.

Act, I of 1894.

Act I of 1894, authorised the deposit of surplus-moneys, at interest at any Bank or Banks, which the Standing Committee subject to the control of the Corporation from time to time select for the purpose.*

Act, I of 1898.

Act I of 1898, was passed in order to supplement the provision of the City of Bombay Municipal Act 1888 with respect to the investment of sinking funds and surplus moneys and to validate certain debentures.*

The Epidemic Diseases Act.

The Epidemic Diseases Act I of 1897 was passed in that year.

The Public admitted to the meetings of the Bench.

At an adjourned quarterly meeting of the Justices of the Peace of Bombay, held on the 12th August 1871, in the Durbar Room of the Town Hall, it was proposed that the public be admitted to the meetings of the Bench.

Mr. Muncherjee Nawrojee Banajee seconded the proposition.

After discussion it was agreed that the public should be admitted.

The Chairman (Mr. Cannon) said "Gentlemen it is understood then that the public are to be admitted so far as is not inconvenient for purposes of business. Those who may be admitted are not to speak, or to make any unnecessary noise, or they may find themselves bundled out "neck and heels." (applause.)

Changes in the law.
The Quarantine Bill.

The Quarantine Bill which was under consideration early in 1867, by the Legislative Council was subsequently passed (Bombay Act VI of 1867).

Establishment of Sanitaria.

Under Act VI of 1867 Government could establish a sanitarium, whether on shore or in the harbour to which all infected persons found in Bombay or in the Port may be consigned and the government was empowered from time to time to make rules and to issue orders in special cases with a view to prevent the spread of contagious diseases. The Act further provides for the inspection of shipping arriving at or leaving the Port by a duly qualified Health Officer who has to give his whole time to his duties.

*See Counsel's opinions thereon.

Act IX of 1867 for the regulation of the sale of spirituous liquors provided as a wholesome check upon the consumption of spirituous liquors and secured for the municipal fund the full money value of the licenses, a large portion of which formerly found its way into other pockets.

Act IX of
1867.

At the meeting of the Corporation held on 4th December 1877 the following resolution was *carried*:—

“Proposed by Nowrojee Furdunji Esquire seconded by Byramji Nusserwanji Servai Esquire :—

“That it appears from the proceedings of the Bombay Government Legislative Department published in the Government Gazette of the 19th October last, that by Bill No. III of 1877 entitled “The Bombay Akbari Act 1877 it is proposed to repeal the whole Bombay Act IX of 1867 by which (Section 14) all moneys realised by the issue of licenses for the sale of liquor in the City of Bombay, or by the imposition of fines and penalties under the said Act, are guaranteed to the municipality of Bombay, and are directed to be carried to the credit of the Municipal Fund of the City of Bombay for municipal purposes and that by Resolution No. 7472 Revenue Department dated 19th December 1876, Government having intimated their desire to grant compensation to the Corporation for any loss which it might sustain in case government think proper to deprive it of that source of income to which the municipality, as government admit is equitably and legally entitled, this meeting resolves, that government be requested to introduce into the said Bill a provision for granting adequate compensation for the loss which might be inflicted on the Corporation by the withdrawal of the said income.

The Akbari
Act. liquor
License fees.

Act V of 1878 fixed the liquor license contribution at Rs. 1,43,750 per annum.*

Act V of
1878.

Under Act III of 1870, Government provided for the repayment to them of a sum of Rs. 15 lakhs advanced to the Corporation of the Justices of the Peace for the City of Bombay within a period of ten years with interest at 5 per cent. Clause III of this Act also provided for the payment by monthly instalments of the Vihar Water Works Debt.

Act III of
1870.

Vihar Water
Works Loan.

* For further details see *liquor licenses*

Act II of
1872.

Act II of 1872 was passed in order to provide for the repayment of a further sum of Rs. 15 lakhs advanced by government to the Corporation of the Justices of the Peace.

The period of repayment was limited to twenty years with interest at 5 per cent. The amount so advanced was (clause VI) to be applied in payment of (1) the amount due for principal and interest on account of Rs. 2 lakhs advanced by government on 3rd November 1871, (2) for principal and interest in respect of a cash credit advance made to the Justices by the New Bank of Bombay and (3) all sums due for principal and interest to the Sinking Fund &c.

Fixing the
day of the
official year.

Bombay Act VI of 1882 was passed substituting the official year as commencing on 1st April in place of the calendar year commencing from 1st January.

Contribution
towards exhi-
bitious.

Bombay Act II of 1885 empowered the Municipal Corporation of Bombay to subscribe to the guarantee fund of the Bombay International Exhibition and to enable the Municipal Commissioner of Bombay to be a member of the Executive Committee of management of the said Exhibition.

Town Duties.

Bombay Act II of 1886 enabled the Corporation to raise increased revenue from Town Duties.

Government
asked to
attach some
such title as
Hon'ble to the
office of Pre-
sident of the
Corporation.

In the year 1888, some of the Councillers thought that the time had arrived when Government might well be asked to attach a title as that of Hon'ble to the office of President of the Corporation.

Major Selby took up the question, and having given previous notice proposed that the following letter be addressed to Government:—

“The Corporation being very desirous that the office of the President should be rendered as full of dignity as possible, desire me to request that some title, such as “Honorable” may be attached to the office. They do not overlook the fact that such a course will probably involve the conferring of a like dignity on the holders of a similar position in Calcutta and Madras. But they think that His Excellency in Council will agree with them that the head of the government of a great city, whether that city be Bombay, or Madras or Calcutta is not undeserving of the honor they now solicit for their President.”

Government replied as under

General Department.

Bombay Castle 19th October 1888.

No. 3713 of 1888.

To

THE HON'BLE MR. R. M. SAYANI,

President Bombay Municipal Corporation.

SIR,

In reply to your letter No. 4608 dated 8th Instant, I am directed by His Excellency the Governor in Council to inform you that His Excellency in Council while desiring to recognise and to maintain in every reasonable way the dignity of the office of President of the Municipal Corporation of Bombay is of opinion that that dignity is sufficiently expressed in the official designation of the gentlemen who holds that office and that the addition of any further honorific title is undesirable.

I have &c.,

J. De C. ATKINS,

Under Secretary to Government.

This letter was *recorded*.

Then came the question of providing a chain and Badge for the office of President. It was Major Selby who took up this question and in accordance with notice of motion proposed :—"That in the opinion of the Corporation, it is desirable that a chain and badge of office should be provided for the President, and that the Standing Committee are hereby directed, after making such inquiry as they deem fit, to report to the Corporation what the probable cost will be and how the money is to be obtained."

The Standing Committee at their meeting held on 17th October 1888, requested the Municipal Commissioner to obtain the Municipal Solicitors opinion as to whether the outlay was one which could be met from the Municipal Fund.

The Solicitors gave the following opinion :—

"In returning the papers forwarded for opinion under your No. 12463 dated 20th ultimo, we have the honor to state that we can find no provision in the City of Bombay Municipal Act 1888, which would justify an outlay from the Municipal Fund for the purpose of providing a chain and badge of office for the President of the Corporation. Sections 61 and 62 define the several matters for which it is incumbent on the Corporation to make adequate provision and we need hardly say that the purpose in question certainly does not come within the terms of any sub-clause of either of those sections. Section 63 on the other

Chain and
Badge for the
Office of Pre-
sident.

hand purports to state the matters for which the Corporation may in their discretion provide and those matters as far as sub-clauses (a) to (j) inclusive and sub-clause (l) are concerned are so specifically defined that it is unnecessary to discuss them in detail; it is sufficient to say that by no possible straining of language could they be held to justify such an outlay; it only remains then to consider whether it could possibly be held to be covered by the more general clause (k) "any measure not hereinbefore specifically named likely to promote public safety, health, convenience or instruction." As to this we can only say that we do not for our part see how the provision of chain and badge of office for the President could be likely to promote either of those objects. It seems to us that municipal moneys cannot be legitimately applied to any other purposes than are comprised in one or other of the sections we have referred to."

CRAWFORD and BUCKLAND

The consideration of this opinion was postponed (S. C. 21st November 1888)

The Standing Committee at their meeting held on 12th December 1888, requested the Municipal Commissioner to obtain the design of a chain and badge for the President.

The Standing Committee at their meeting held on 8th May 1889 resolved to inform the Corporation that the probable cost would be from Rs. 6,000 to Rs. 8,000 for the chain and badge but that the cost could not be defrayed from the Municipal Fund.

At the meeting of the Corporation held on 16th May 1889 it was proposed by M. N. Banajee Esquire (in the absence of Major Selby):—

"That with reference to his letter dated 11th instant to the President, Dr. Blaney be informed that the Corporation will accept the chain and badge for the President."

The motion was seconded by Mr. (Now Sir) Bhalchandra Krishna Bhatvadekar.

Amendment.—Proposed by the President (Mr. G. Geary) seconded by Mr. (Now Sir) George Cotton.

"That the thanks of the Corporation be offered to the gentleman who has made the anonymous offer of a gold badge and chain for the President; but that the offer be respectfully declined."

The *Amendment* was carried as substantive proposition by 16 votes *Against* 9 votes.

The following statement gives, the names of the Corporation, the Chairman of the Standing Committee and the Municipal Commissioner.

Year.	Chairman or President of the Corporation.	Chairman Town Council or standing Committee.	Municipal Commissioner.	Remarks.
1873	Capt. G. F. Henry (from 4th Sept.)	C. Currey Esq. from 11th September 1873.	W. G. Pedder Esq.*	*From October 1865 to 1872 the following were the Municipal Commissioners.—
1874	Capt. G. F. Henry up to March and J. A. Forbes Esq., for remainder of the year.	Do.	W. G. Pedder Esq., E. W. Ravenscroft Esq., and W. G. Pedder Esq.	October 1865 } A. T. Crawford Esq. to Jan'y. 1872 }
1875	J. A. Forbes Esq., up to July and Dossabhoj Framjee Esq., for the remainder of the year.	C. Currey Esq. up to May. Captain G. F. Henry for remainder of the year.	W. G. Pedder Esq., I. C. S. from April 1875. H. E. Jacob Esq., from May to December.	Jan'y. 1872 to } T. C. Hope Esq. May 1872. }
1876	Dossabhoj Framji Esq., C. S. I.	Captain G. F. Henry.	W. G. Pedder Esq. till November. E. W. Ravenscroft Esq., (remainder of the year).	May 1872 to } J. B. Peile Esq., Sept. 1872 }
1877	Lt. Col. H. F. Hancock.	Captain Henry up to February; J. M. Maclean Esq. for remainder of the year.	E. W. Ravenscroft Esq., up to 23rd January; A. C. Trevor Esq., up to 31st January; J. H. Grant Esq., from February.	Sept. 1872 to } T. G. Hewlett, Esq. Nov. 1872. }
1878	Do.	Dr. T. Blaney C. I. E.	J. H. Grant Esq.	1872 W. G. Pedder. Esq.
1879	Rao Sabeab V. N. Mandlik C. S. I.	Do.	Do.	

The following statement gives the names of President of the Corporation, the Chairman of the Standing Committee and the Municipal Commissioner.—*Continued.*

Year.	Chairman or President of the Corporation.	Chairman Town Council or Standing Committee.	Municipal Commissioner.	Remarks.
1880	Rao Saheb V. N. Mandlik C. S. I.	Dr. T. Blaney C. I. E.	J. H. Grant Esq., J. M. Campbell Esq., Dr. T. S. Weir	
1881	Dr. T. Blaney C. I. E.	Do. and Surgeon Major H. Cook M. D.	J. H. Grant Esq., J. Nugent Esq., Dr. T. S. Weir, Mr. (Now Sir) E. C. K. Ollivant.	
1882	Sir Frank Souter Kt. C. S. I.	Surgeon Major H. Cook M. D. up to May. Sir Frank Souter for the remainder of the year.	Mr. (Now Sir) E. C. K. Ollivant.	
1883-4	Sir Frank Souter Kt. C. S. I. up to March Ragnath N. Khote Esq. C. I. E.	Sir Frank Souter.	Do.	
1884-5	The Hon'ble Mr. Pheroze Shah M. Mehta C. I. E.	Do. up to October. Brigade Surgeon H. Cook (for remainder of the year)	Do.	
1885-6	Do.	Brigade Surgeon H. Cook.	Do.	
1886-7	Deputy Surgeon General H. Cook M. D.	Dossabhai Framji Esq., C. S. I.	Do.	
1887-8	Captain Sir Henry Morland Kt.	Do.	F. L. Charles Esq., I. C. S.	

The following statement gives, the names of President of the Corporation, the Chairman of the Standing Committee and the Municipal Commissioner,—*Continued.*

Year.	Chairman or President of the Corporation.	Chairman Town Council or Standing Committee.	Municipal Commissioner.	Remarks.
1888-9	Rahimtoola M. Sayani Esq.	Dossabhai Framji Esq., C. S. I.	Mr. (Now Sir) E. C. K. Ollivant.	
1889-90	Gratten Geary Esq.	Dossabhai Framji Esq., up to 23rd October 1889; Dr. Thomas Blaney for remainder of the year.	Mr. (Now Sir) E. C. K. Ollivant.	
1890-1	Khan Bahadur M. C. Murzban C. I. E.	Sir Henry Morland Kt. (till 29th July 1891). Esq., (for remainder of the year).	H. A. Acworth Esq., C. I. E.	
1891-2	Mr. (Now Sir) George Cotton.	E. B. Carroll Esq.,	Do.	
1892-93	Javerilal U. Yajnik Esq.,	Cowasjee Hormusjee Esq., G. G. M. C.	Do.	
1893-94	Dr. Thomas Blaney C. I. E.	Do.	{ Dr. T. S. Weir.	
1894-5	Abdulla M. Dharansi Esq.,	G. W. Roughton Esq.,	H. A. Acworth Esq. C. I. E. I. C. S.	
1895-6	G. W. Roughton Esq.,	Mr. (Now Sir) Bhalechandra K. Bhatwadekar.	P. C. H. Snow Esq. C. I. E. I. C. S.	
1896-7	Cowasjee Hormusji Esq., G. G. M. C.	Do.	Do.	

The following statement gives, the names of President of the Corporation, the Chairman of the Standing Committee and the Municipal Commissioner.—Continued.

Year,	Chairman or President of the Corporation.	Chairman Town Council or Standing Committee.	Municipal Commissioner.	Remarks.
1897-8	Sir G. Cotton Kt.	Mr. (Now Sir) Bhalchandra K. Bhatwadekar.	P. C. H. Snow Esq., C. I. E. I. C. S.	Municipal Secretaries. From 1870 to May 1898 Mr. H. W. Barrow.
1898-99	The Hon'ble Sir. Bhalchandra K. Bhatwadekar.	The Hon'ble Mr. Ibrahim Rahimtoola.	{ P. C. H. Snow Esq. C. I. E. I. C. S. W. L. Harvey Esq., C. I. E. I. C. S.	
1899-1900	The Hon'ble Mr. Ibrahim Rahimtoola	Nanabhai. N. Katrak Esq.,	W. L. Harvey Esq., C. I. E. I. C. S.	From 21st May 1898 Mr. M. N. Wadia.
1900-1901	C. T. Burke Esq., B. E. M. I. C. E.	Mulji B. Barbhaya Esq.	W. L. Harvey Esq., C. I. E. I. C. S.	Mr. L. W. Michael (acting for Mr. Wadia for 2 Months.)
1901-2	Dinsha. E. Wacha Esq.,	T. W. Cuffe Esq.,	W. D. Sheppard Esq., I. C. S.	Mr. M. N. Wadia.
1902-3	Mulji B. Barbhaya Esq.	James MacDonald Esq.,	Do. (acting for W. L. Harvey Esq.)	Do.

LIGHTING.

The question of lighting of streets was first considered in the year 1833, when the Committee appointed by His Majesty's Justices made the following report :—

“ The Committee is unanimously of opinion that under statute 33 George III, Chapter 52, the Bench possess the authority of lighting, as a means for the effectual watching of the streets of the Town and Island ; as well as for the security, comfort and convenience of the inhabitants, and therefore recommend the Bench, to invite tenders for making lamps and providing and fixing of lamp posts &c. And the Committee are further unanimously of opinion, that as an experiment, the road across the Esplanade from the Church Gate, and as far as the Mumbadevi chowkey on the Parel Road, should be lighted up. The Committee further recommend that the Bench call upon the Superintendent of Roads, for his professional opinion, as to the description of lamps, posts &c., he would recommend, as well as the distances at which the lamps ought to be placed, together with an estimate for making and putting up a lamp complete, as well as for lighting the same for one month.

Lighting
first consi-
dered in 1833

J. D. DeVITRE,
HENRY GRAY,
R. C MONEY,
GEORGE ADAM,
B. DOVETON,
CLAUDE S. STEUART,
ROBERT WALLACE,
JAMES WALKER.

11th February 1833.

On the motion of Mr. Adam seconded by Mr. DeVitre, the report was adopted.

On the 6th May of the same year Colonel Dickenson submitted a letter from the Chief Engineer stating that the Commander in Chief of the Garrison has precluded the measure proposed by His Majesty's justices *viz.*, fixing lamp posts along the Esplanade Road.

Preclusion
of lighting the
Esplanade.

On the same date Colonel Dickenson was requested to place six experimental lamps along the Bhendy Bazaar Road.

Subsequently the Honourable the 'Chief Justice' in a conversation informed Colonel Dickenson that the contemplated lighting of the principal roads and streets within the limits, by the Bench was illegal, the same not being provided for by the Act of Parliament. In the same way the watering of roads and streets within the limits was also illegal. That the assessment funds were not available for any other purposes than those provided for by the Act, until the cleansing, watching and repairing of the different public ways, were carried out to the utmost, which was not the case. The lighting of the streets within the limits was therefore stopped temporarily.

Lighting
of Bombay :—
opinion of the
Chief Justice
thereon.

On the 9th September following Mr. W. C. Bruce, Chairman of the Bench, Mr. Money and Dr. Wallace made the following minutes on this subject :—

“ The opinion here given with respect to the contemplated lighting up and watering the principal roads and streets, being an extra judicial one,—with every deference and respect for the high authority it comes from,—it appears to me, that it will be time enough to yield obedience to it, when it is delivered *ex cathedra* or from the Bench, and that we should be wanting in self respect, and ill discharge the duty we owe the public ; were we to allow ourselves to be governed in this or any other matters placed by law under our “ orders and directions ” by the sentiments (expressed in a private conversation) of any individual however eminent his station, more especially, when they are so very contrary to what would seem to be the plain meaning of the Act of Parliament.

“ In the words of the Act, the funds under the control of His Majesty's Justices, are to be employed in “ effectually ” cleansing, watching and repairing the streets, as they (the Justices) “ shall judge necessary.” Now, how, I shall be glad to know, can the streets be “ effectually ” watched at night or *warded* either, unless they are lighted ? and at all events, all must agree, that if they *were* lighted, they would be more “ effectually ” watched, than if it were not so, and with respect to watering the roads, I can conceive nothing more essential to their “ effectual ” repair, exposed as they are during all the fair season, to the joint action of a burning sun and of frequent high winds ; the one reducing the materials to an impalpable powder and the other scattering it to the four-quarters of the heavens, both of which effects, are greatly counteracted, and the comfort of the inhabitants promoted in a great degree at the same time by this admirable contrivance. Indeed there can be little doubt, I should think, of its causing an actual saving instead of an additional charge. This, however, can readily be ascertained by calling upon the superin-

tendent of the roads, for a statement of the comparative expense of repairs for a given time, before, and since it was first introduced which I would accordingly recommend being done.

"Upon what may be the legal acceptance of the terms "watching" and "repairing," I do not presume to offer an opinion, but I humbly submit that both "lighting" and "watering" are clearly within the common sense meaning so far as relates to the roads.

"By consenting to surrender its own judgment to a dictum so interposed, the whole authority of the Bench may ere long, be wrested from it—since by a little forced construction—many of its other acts might similarly be pronounced to be contrary at law. What is to prevent other repairs for instance as well as much of what is considered requisite with a view to cleansing the roads, from being declared by the present or future Chief Justice, as not properly coming under those two denominations.

"Under these circumstances, without intending the smallest disrespect to the Honourable the Chief Justice, I propose that directions be given to proceed as usual in the watering of the roads and streets and that the plan of lighting the principal roads and streets, which had been commenced, but was suspended in consequence of what fell from the Chief Justice in conversation with the Senior Magistrate of Police, be resumed."

(sd.) WILLIAM C. BRUCE,

6th September 1833.

Chairman.

"I quite agree with Mr. Bruce in his remarks on the construction, which we have the power of putting on the Act, the only question is, whether the funds at our disposal under such an act, may not be more usefully appropriated. If we agree that they cannot, than in lighting and watering the roads, I vote to proceed as heretofore."

(sd.) R. C. MONEY,

"So do I."

(sd.) H. P. HADOW.

"I concur in opinion with our chairman and cannot forbear expressing my regret that the letter agreed upon at one time by the Bench, as a reply to a former verbal communication from the Chief Justice, was ever sent to him."

(sd.) R. WALLACE.

The Bench agreed to follow out the above suggestions and authorised the work of watering and lighting of streets to proceed.

The question then went before the Supreme Court and the judgment given was that the application of any part of the Assessment Funds to the lighting of streets was contrary to the meaning and intent of the statute 33rd George III.

The lighting was thereupon stopped.

Difference of opinion as regards the legality of lighting the streets.

Reference to the Supreme Court.

For a period of ten years nothing was done towards lighting the city. In 1843, a resolution was passed by the Bench, that the first application of the available funds should be devoted to the lighting of the principal streets as a measure tending to the comfort and security of the inhabitants.

Act XI of 1845 had the following proviso :—

“ That the residue of the Municipal Fund was to go towards repairing, cleansing and lighting the public roads and streets.”

In 1853 there were 50 lights, these were lighted from dusk to midnight throughout the year except on moon-light nights. Altogether they were lighted for 1680 hours in the year, and the actual cost was Rs. 16-12-9 each per annum or Rs. 1-6-5 per mensem.

In 1853, a proposal to light Bombay with Gas was under contemplation and on a representation from the Bench, the Government placed all their records on this subject at the disposal of the Justices.

On the 15th June 1853, Mr. H. Conybeare, the Superintendent of Repairs made the following report to the Board of Conservancy :—

“ With reference to the documents on the subject of gas illumination noted in the margin, and referred to me for opinion, I have the honour to report as follows :—

Prospectus of the Oriental Gas Company.

Letter from the Directors of said Company to the Board of Conservancy.

Letter from Mr. Secretary Lunsden, dated 25th May 1853 forwarding for the Board's opinion a letter dated the 9th May from the Provisional Secretary of the proposed Bombay Gas Company.

Letter from the Provisional Secretary of the proposed Bombay Gas Company to the Board of Conservancy.

Letter from the Directors of Oriental Gas Company to the Board of Conservancy.

Copy of a letter dated 4th May 1853 from the Directors of the said Company to the Hon'ble the Court of Directors.

Another letter from Directors of the Oriental Gas Company to the Board of Conservancy.

warded to me for report on the 28th September 1852. The second is a wealthy firm of Gas fitters at Manchester, who are already in communication with the Municipal authorities at Calcutta, and have applied to me through a Bombay house of agency for local information previous to making similar overtures at Bombay. The third is the “ Oriental Gas Company,” whose prospectus is dated the 9th April 1853, and whose letter to the Board of Conservancy has now been forwarded to me for report. And fourthly there is the proposal for forming a Coal or Oil Gas

Proposal to
light Bombay
with gas in
1853.

Company at Bombay, the Provisional Secretary of which intended Company addressed Government on the 9th and the Board on the 28th May 1853.

4. Each of these Companies or parties would require, before investing capital in such an undertaking, a grant of the exclusive privilege of lighting the Town by Gas for a limited period, say of 30 years, and (due precautions being of course taken for preventing excessive charges) it is in my opinion highly expedient, and even necessary, in order to induce any Company to undertake the risk, that such exclusive privileges should be conceded. Hence arises the necessity of selecting one out of the four parties at present in the field.

5. Without pronouncing an opinion on the comparative claims of each of these to public favour, I shall proceed to consider, with the view of rendering the question before the Government and the public, more precise :—

(1) What concessions any of these companies would probably require from the local authorities ?

(2) What guarantees the authorities and the public would in return expect from the particular company selected ?

(3) What preliminary steps the Government, the Bench and the Board of Conservancy, can take in the present early stage of proceedings, to assist and encourage undertakings of the nature in question ?

(4) What data exist for determining whether such an undertaking would be remunerative, or, in other words, what is the probable gas consuming capabilities of the native population ?

(5) What description of gas, whether coal or oil, would be cheapest for Bombay, and on what scale would it be most prudent to commence the manufacture in the first instance ?

6. Regarding the 1st of these point, I am of opinion that any Joint Stock Company, before incurring the risk inseparable from such an undertaking in India, would require from the authorities :—

(1) A guarantee of the exclusive right of supplying gas to the inhabitants of Bombay for a limited period of years.

(2) A convenient site for their works.

(3) Contracts on reasonable terms for all public lighting required in the streets or public establishments.

(4) That all materials for their works should be allowed to be imported duty free.

7. On the other hand, the authorities would require of the company selected :—

(1) To be satisfied that it was in all respects fully competent to perform what it undertook.

(2) That it was possessed of sufficient *bona fide* capital, and also of *English connection*, which would prevent its paying double the proper value for everything it ordered out.

(3) That its officers possessed the thorough practical knowledge of all the technical details of the subject essential to the efficient establishment and management of such an undertaking.

8. It would not do to have a second edition of the Bombay Steam Navigation Company. That Company had no exclusive privilege, and the failure of its expectation has therefore occasioned no practical inconvenience; but with a privileged Gas Company the case would be altogether different. The privilege might indeed be withdrawn, but the failure of the first company would discourage others from coming forward, and even could another company be formed under such circumstances, the disposal of the old company's plant (works, piping &c.), would occasion delay and embarrassment in clearing the ground for a new one.

9. 2nd—The authorities would require some security that the public lights should be supplied with gas of good quality, and at a moderate rate. Private consumers would require no protection, for oil is so uncommonly cheap at Bombay (and it is capable of, being rendered still cheaper and better by very simple improvements in its manufacture, the native presses being so bad as to leave nearly half the oil in the cake) that the gas must be very good and excessively cheap to tempt the people to give up their old habits, and to go to the expense of putting up gas fittings gasometers &c., in each house supplied, subjecting themselves at the same time to the regular and *punctually* enforced yearly or half yearly demands of the Gas Company.

10. 3rd—The slight depth beneath the surface at which the drains of a town like Bombay are laid may possibly render it difficult to lay the gas pipes in the streets that are drained with a centre sewer and cross drains, without rendering some alteration of the latter necessary. In such cases, and in all others in which the drainage or road surface is interfered with, the Gas Company should be bound to make good all damages incidental to their operations.

11. I now come to the third point to be considered *viz.*, what *immediate* preliminary steps can the authorities take in so early a stage of proceedings as the present to encourage the undertaking in question?

12. The authorities may in the first place consider and take legal advice regarding the terms of the exclusive 'charter' they would be prepared to concede to the company selected.

As regards a site for the gas works. One intending gas company had fixed on the grounds now occupied by the temporary railway terminus as the site of its proposed works. This site or indeed any other on the Esplanade would I presume, be objected to by the military authorities. But Mody Bay, which it is proposed to fill in for the permanent railway

terminus and other purposes, would afford an equally convenient locality for the gas works, and sufficient additional ground might probably be reclaimed there without any material increase to the length of the sea wall already estimated for. From one to two and a half acres would be all that would be required for the purpose. The latter amount is the space occupied by one of the largest gas works ever designed containing 400 retorts, 12 gasometers capable of storing 10,00,000 cubic feet of gas, having coal stores capable of holding 10,000 tons of coal, and everything else complete, and on a similar scale. Works on a much smaller scale than this would suffice for Bombay.

13. The Board might also cause to be prepared without delay, for the information of intending gas Companies, a classified abstract of the house assessment of each street, showing the number of houses in each assessed at above Rs. 70 per mensem, at between Rs. 70 and Rs. 50, Rs. 50 and Rs. 40 and 30, Rs. 30 and 25, and Rs. 25 and 20 &c. &c., with the length of each street. All intending gas speculators who have written to me on the subject of calculating the probable gas consuming power of the population have urged the importance of such information.

The number of public lights at present maintained is 50; they are lighted from dusk to midnight nightly throughout the four rainy months, and also on all but bright moonlight nights throughout the fair season. Altogether they are lighted 1680 hours in the year, and the actual cost is Rs. 16-12-9 each per annum or Rs. 1-6-5 each per month.

I now come to the 4th point I proposed to discuss. "What data exists for determining the extent to which the introduction of gas illumination at Bombay would be probably remunerative"? English Gas Companies look for remuneration to the income to be derived:—First from public or street lights; second from theatres, manufactories and other large consumers; third from shop lights, and the domestic consumption of gas.

I have already stated that we at present maintain 50 public lights only for 1680 hours each yearly, at an expense of Rs. 16-12-9 per annum or Rs. 1-6-5 per month. The cost of each light may be otherwise stated at Re. 1 per 100 hours illumination. At Calcutta according to the *Friend of India*, there are about 400 public lights maintained by the Municipal authorities and the cost of a street light maintained for the whole of every night (4380 hours per annum) is stated by the same authority at Rs. 3-8-0 per mensem; the cost of each light may be therefore stated at Re. 1 for each 102 hours illumination, a rate not differing materially from that of Bombay. * * *

Mr. Thornton, the Provincial Secretary to the proposed Bombay Gas Company in his letter to Government of the 9th May 1853, paragraph 5, states, as the result of careful calculation that "at present" (i.e., at the present prices of coal, which it is

hoped ultimately to reduce) *leaving an ample margin for contingencies*, it appears it (gas) may be remuneratively supplied to consumers at a cost of Rs. $2\frac{1}{2}$ per 1,000 cubic feet.

But in Mr. Thornton's letter to the Board of the 28th May 1853 this Rs. $2\frac{1}{2}$ per 1,000 cubic feet has already swelled to Rs. $4\frac{1}{2}$ per 1,000 cubic feet. Mr. Thornton says (paragraph 3) "the price of gas will not exceed the London rate of nine shillings, per 1,000 cubic feet. This price is calculated in the event of coal gas being introduced.

The result I have arrived at is that coal gas of good quality cannot certainly be remuneratively supplied at Calcutta or Bombay below Rs. 5 per 1,000 cubic feet. At this rate, the cost of the 22,000 cubic feet required for maintaining each street light, consuming 5 cubic feet per hour, for the *whole of every* night, would be Rs. 110 per annum.

The amount might be diminished by only lighting the lamps for a *portion* of every night, or by using an inferior burner. Moreover gas companies in England generally supply the street lights at a considerably lower rate than private ones. From a letter I received from Captain Barber last mail, I learn that the Oriental Gas Company propose to supply the street lights at Bombay and Calcutta at Rs. 70 per annum each, subject to an annual reduction of Re. 1 during the time of the grant, and this appears to me a very reasonable rate.

It must be remembered, that in the case of street lights, in addition to the consumption of gas, there is the expense of lighting, extinguishing, cleaning and repairing the lamps, and also the first cost of the lamps, posts and piping to be considered.

The street lights supplied by the Oriental Gas Company at Rs. 70 per annum would be of course infinitely superior to the wretched lamps for which we at present pay Rs. 16-12-9 yearly; but it must be remembered that these latter are the worst of their kind, and that a well constructed oil lamp is capable of yielding a brighter light than coal gas, and that (as I shall presently show) at a smaller cost than coal gas, where oil is so cheap as in India. * * *

In one of the letters of gas inquiries which have been forwarded to me for answer and opinion, it was stated by an intending gas speculator, who possessed a thorough practical knowledge of the subject, and had had extended experience in the application of gas to the lighting of English towns, that a very good idea of the probable gas consuming power of a town population might be formed by going through the streets of the town to be supplied between the hours of 9 and 10 and observing the extent to which the houses were lit up: at these hours there are very few lighted houses to be seen in the streets of Bombay except in Duncan Road and Bhendy Bazar.

In fact the Domestic expenditure of the middling and lower classes of Hindoo is proportionally as small in light as in food : they begin to light their lamps at dusk, usually one in the verandah of their houses, one in the hall or general sitting room ; and a third in the eating room. In houses of the middling class, the two first are what is called tumbler lights, with a single wick, exactly similar to what Europeans in India use as night lights, the eating room light is a brass lamp, on the principle of the antique Greek and Roman lamps, but with orifices for a larger number of wicks. As the women do not eat till the men have finished, one of these lamps is sufficient for a family of the average number. Each of these lamps consume the same quantity of oil as a single wick tumbler light. In general, all three lights are extinguished by about 10½ o'clock. Besides these larger lights, there are night lights (also lighted from dusk) in every bed room in use, and they are always kept up all night in rooms where there are children. These night lamps are generally of brass, in the houses of the middling classes. In the houses of the richer class, there would be more than one light in the verandah—there would be tumbler lights instead of night lights, and of course more oil consumed ; but there is much less difference between the habits and domestic expenditure (except in servants) of the upper and middling classes of Hindu, than is the case in a European population.

It is evident that if the difference of cost between coal gas and oil be in *India* at all in favor of gas, it will be so to a very much smaller extent than was the case in England when gas was first introduced there ; for a voyage of 1,200 miles must of necessity render the coal of which gas is made materially dearer in Bombay than in England, and more than 7 gallons of the best quality of oil used for illumination in India may be purchased for the same money that a single gallon of the best quality of oil used for the same purpose in England would cost, and five gallons of the cheapest quality used here for the price of a single gallon of the most inferior kind used for illumination in England.

I should recommend to any company undertaking the introduction of gas at Bombay, to commence operations by the erection of experimental works on a small scale in the first instance, but built with a view to future extension, as a demand was created ; and I think that such an experiment would be much more likely to succeed as a branch work in the hands of a wealthy company, having extensive works in other parts of India, than in those of a distinct local company, which would have to keep up (for Bombay alone) costly agencies and establishments for a concern on too small a scale to bear their expense.

There would be no difficulty in constructing these works with a view to future extension ; for the principle difference between

large and small gas works is simply, that in the former there are greater number of retorts and gasometers than in the latter. But each individual gasometer may be the same size in both works, and each retort must be so, if it is desired to obtain similarly economical result in each case.

The lighting of a few hundred lamps with Gas is by no means an undertaking nor does it require so large a capital as appears to be considered necessary at Bombay. In the northern district of England there is scarcely a manufactory of moderate size and requiring light which does not put up its own gas works if it be out of reach of the mains of any public Company. The cost of such apparatus for a manufactory of moderate size frequently does not exceed 60 pounds and I have known it done for 40 pounds. I have mentioned in a former report on the subject that Axminster, a straggling country town in Devonshire had been lighted by a gas company with a capital of only Rs. 10,000 (1,000 pounds). The experiment whether gas would answer or not in Bombay need not therefore be a very expensive one and it is certainly well worth trying. I believe that works sufficient for supplying all the gas likely to be required in Bombay for some years to come might be completed, with all incidental expenses (by a gas company in a large way and having already a staff in India) for Rs. 15,000 or Rs. 20,000.

I have etc.

(Sd.) H. CONYBEARE,

Superintendent of Repairs.

In July 1859, the Bench recorded their opinion that it was most desirable to light the Town with Gas, but understanding that the Municipal Fund was insufficient to defray the expenses and as they do not consider a special tax advisable, they were of opinion that the Municipality should not pledge itself to the Gas Company for any number of lights.

Two years after this, the Bench cordially approved of the proposal of the Municipal Commissioners to address Government requesting a special enactment to allow a portion of the sum set apart annually for the Drainage of Bombay being appropriated to the lighting of the Town with Gas. Mr. Forgett however prepared a scheme in which he estimated that it would cost Rs. $1\frac{1}{2}$ Lacs to provide Gas works for Bombay.

Government agreed with the suggestion of Mr. Forgett (vide Mr. Under Secretary Steuart's letter No. 1115 of 21-8-61) and asked the Bench to consider the course of raising the loan in preference to the suggestion made by

them. The proposal to raise a loan was agreed to by the Bench, but nothing was done until 1865, when on the 7th October of that year Gas, was first lighted in Bombay. At the end of that year there were 220 lamps, but which number gradually increased year by year.

Gas first
lighted in
Bombay.

The introduction of gas in Bombay was much appreciated and during 1866, several native gentlemen presented the Municipality with large ornamental lamps for central positions on the public roads. Thus the Hon. Munguldas Nathubhoy gave one five light lamp to be erected opposite the Money School.

Presenta-
tion of orna-
mental lamps.

Mr. Ardasier Hormasji Wadia gave five three light lamps.

„ Kesowji Naique gave three of three lights.

„ Kallianji Sewji gave two of three lights.

„ A. D. Sassoon gave one of three lights.

„ Nusserwanji Manekji Petit gave one of three lights.

„ Goculdas Tejpal gave one of three lights.

In his Annual report for 1867 Mr. Arthur Crawford makes the following remark:—"Acting on the suggestion of a well known "Tom Cringle" I am about to light certain parts of the Town with kerosine oil. I have tried it on a small scale and found it a success. If it proves economical on a large scale (and I have no doubt of this) I shall gradually substitute it for Gas." The lighting of the Town with kerosine oil was tried and eventually stoppēd in the year 1871.

Kerosine oil.

The lighting of the Town by Gas continued and with a reduction in the rate which in 1871, was Rs. 8-8 per lamp per month. In 1876 there were 3165 lamps lighted. Four years later there were 140 Kerosine Oil lamps lighted in the city.

The Arthur Crawford Markets were lighted by Electricity in 1882. The year following this, the Corporation entered into an agreement with the Eastern Electric Light & Power Co. granting the Company the right to lay, conduct, and maintain and use Electric cables, under, along or over certain of the Public Streets and Roads in the city. This Company was however short lived as in the year following, they went into liquidation. Mr. (Now Sir) E. C. K. Ollivant, who was then Municipal Commissioner asked the Corporation if they would purchase the property and business of the Company. The Corporation decided not to do so.

Lighting of
Crawford
Market with
electricity.

In consequence of this failure the Arthur Crawford Markets had again to be lighted with Gas.

Lighting the
city with elec-
tricity,

A portion of the city was for a short time lighted by Electricity. The budget for 1891-92 had a provision of Rs. 32,500 for experimentally lighting certain portions of Bombay with Electricity. In the same year the Municipal Commissioner was asked to prepare a special report on the subject of carrying out experimental electric lighting in the city and to apply to Government for the temporary services of an Electrician. As the Government Engineer declined to advise the Corporation on the subject, the Commissioner was authorised to obtain the temporary services of some other Electrician. The services of the Electrical Engineer of the G. I. P. Ry., having been obtained, tenders were invited for experimentally lighting the city by Electricity,

In May 1891, the Corporation recorded their opinion that the consideration of lighting a certain portion of the city with electric light, should be postponed *Sine Die*. A few months later the Corporation asked the Municipal Commissioner to inform the Corporation whether there exists in Bombay tidal or other water power as would supply motor power for lighting the whole or a part of Bombay with Electric lights.

The Commissioner's report which is quoted at page 583, Vol. XV, Corporation Record, shows that it would be cheaper to work with steam than with water power.

Lighting of
the municipal
offices and
Arthur Craw-
ford Market.

The Corporation in 1894, sanctioned an initial expenditure of Rs. 20,000 for providing additional machinery and plant for lighting the Municipal Offices and the Arthur Crawford Markets by Electricity. Then finally comes the renewal of the lighting contract, the details of which is given in extenso.

Lighting
of the city;
Committee's
report thereon

.. The Committee appointed by the Corporation to consider the subject of the future lighting of the city, reported as follows :—

"It appeared to the Committee that the enquiry should embrace —

- (a) Electric lighting.
- (b) Ordinary gas lamps and kerosine lamps as at present, but the latter to have duplex burners.
- (c) "Welsbach" incandescent gas lamps and kerosine lamps with duplex burners.
- (d) Kerosine lamps only with duplex burners.

Mr. Murzban's valuable and exhaustive report shows that the capital expenditure and annual cost for lighting by (a), (b), (c) and (d) would be —

CAPITALIZED EXPENDITURE.		Annual cost.
(a)	Rs. 25,50,000.....	Rs. 6,73,200
(b)	{ At present contract rates....	„ 3,51,307
	{ At proposed rates.....	„ 3,29,805
(c)	Rs. 2,04,325.....	„ 2,97,329
	including 10 per cent. for contingencies.	
(d)	Rs. 63,989	„ 2,24,445
	including 10 per cent. for contingencies.	

It would seem from the above that the electric light—irrespective of other considerations—is from the large initial expenditure required and heavy annual cost, beyond the present means of the Corporation; and that the present system (b) considering its poor illuminating power and heavy cost as compared with (c) and (d) systems need not be further considered.

The question therefore, in the opinion of your Committee, resolves itself into the adoption of Welsbach incandescent gas lamps instead of the present gas lamps, and the substitution of duplex for single burners in the kerosine lamps now in use, or the non-renewal of the Gas Company's contract and the lighting of the city by kerosine lamps with duplex burners.

After careful consideration of the advantages and disadvantages of the two systems your Committee advise—

(1) Provided the Gas Company revise their rates as requested by the Commissioner, or offer such rate as on further enquiry by the Commissioner may appear fair to him; the Commissioner may enter into a contract with the Company for ten years, and make arrangements for replacing the present gas-lamps with Welsbach incandescent gas-lamps, such replacement to be completed within three years.

(2) Should the Gas Company decline to reconsider their rates the Commissioner to arrange to light the city by kerosine lamps with duplex burners.

G. COTTON.

DINSHA EDULJI WACHA.

IBRAHIM RAHIMTOOLA.

R. H. VINCENT.

BOMBAY,
15th December 1894.

I concur with the above, but think the new form of lighting might be carried out in a less period than three years.

S. REBSCH.

I also concur, and only wish to add that if the Corporation is recommended to sanction the adoption of the incandescent gas-lamps in substitution for the present gas-lamps, it may also be recommended to sanction the conversion of all the single kerosine burners into duplex burners.

20th December 1894.

ARDASIR F. UNWALLA.

I agree with this report, but I wish to entirely reserve my liberty of action if the Gas Company do not come to terms. The city would be in a terrible fix were the kerosine oil supply in America to fail, as recent reports show, is not impossible. In that event Russian oil would become enormously dearer, and probably lighting by kerosine oil would become more expensive than gas even at present rates.

G. W. ROUGHTON.

22nd December 1894,

I agree with the above.

THOMAS BLANEY.

Proposed by George Cotton, Esq., seconded by Ardasir F. Unwalla, Esq.—

“That the report of the Committee of the Corporation on the question of the future lighting of the City be approved and adopted, provided the Gas Company revise their rates as proposed by the Commissioner, or offer such rates as, on further enquiry may appear fair to him, he be authorised to enter into a contract with the Company for the period of ten years, and make arrangements for fitting the present gas lamps with Welsbach incandescent gas lamps.

“That the Corporation will be prepared, on the recommendation of the Standing Committee, to sanction the sum required for such conversion, *viz.*, of Rs. 2,04,325. That in the event of the Gas Company declining to consider their rates, the Commissioner be authorised to arrange for lighting the City by kerosine lamps with duplex burners.

“That the Standing Committee report from what source the cost of converting the gas lamps should be met.”

Carried.

RENEWAL OF THE LIGHTING CONTRACT.

The Sub-Committee appointed by the Standing Committee,

‘That a Sub-Committee consisting of the following gentlemen be appointed to consider and report on the proposals contained in the Commissioner's letter to the Secretary, No. 29624, dated 26th March 1895, on the subject of new contract with the Gas Company for lighting the City :—

The Chairman; Cowasjee Hormasjee Esq.; Harikisondas, Narotumdas, Esq.; Ibrahim Rahimtools, Esq.; S. Rebsch, Esq.

on 10th April 1895, as per margin, beg to report that they agree with the Municipal Commissioner in the opinion that all the Municipal gas

lamps should be converted into incandescent burners in one year instead of in three years.

The Sub-Committee recommended that the Corporation should be advised to provide the Rs. 2,17,842 required for the work, by sanctioning payment of that amount from the invested surplus cash balance of Rs. 17,04,134, and providing for the repayment of the same, by yearly payments extending over four years, from the money which will be saved on gas lighting, so soon as the lamps are all fitted with the Welsbach burners.

BHALCHANDRA KRISHNA.

S. REBSCH.

IBRAHIM RAHIMTOOLA.

HURKISANDAS NURROTUMDAS.

COWASJEE HORMUSJEE.

BOMBAY,
10th April 1895.

GIRGAUM, April 15th, 1895.

MY DEAR MR. BARROW,— On reconsidering and discussing the question of contract of lighting, I have come to the conclusion that the Committee's report is based on insufficient information on the subject, which was not available that day, and I think it should not be adopted in its present form. I beg, therefore, to express my dissent from the views of the Committee, and I don't feel justified in subscribing to them. I trust that you will kindly put this dissent of mine before the meeting of the Standing Committee on Wednesday, the 17th instant.—

Yours, &c.,

BHALCHANDRA KRISHNA.

Proposed by Abdulla M. Dharamsi, Esq., seconded by the Honourable Mr. Fazulbhoy Visram—

“ That, with reference to the Corporation's Resolution, No. 10792 of the 3rd January last, and letter No. 29624 of 26th ultimo, from the Commissioner to the Secretary, the Standing Committee agree with the Municipal Commissioner in the opinion that all the Municipal gas lamps should be converted into incandescent burners in one year instead of three years.

“ 2. That the Corporation be recommended to sanction (1) the entering into a contract with the Bombay Gas Company for lighting the street lamps and certain other lamps belonging to the Municipality for the period of ten years from the 1st of July 1895, at the following rates per lamp :—

			Rs.	a.	p.
Ordinary gas lamp, whole month	...	...	83	0	0
“ “ part month	..	...	66	0	0
Incandescent lamp, whole month	...	...	70	0	0
“ “ part month	...	...	58	12	0

(2) The conversion within the period of one year, of

the present ordinary gas burners into Welsbach incandescent gas lamps, at the estimated cost of Rs. 2,17,842; and (3) to the expenditure of such sum from invested balances.

“ 3. That the Corporation be informed that the Executive Engineer estimates that, when the conversion is completed, there will be a net average annual saving on the cost of gas lighting of Rs. 37,798, namely, Rs. 22,791 on account of the reduction in the price of gas and Rs. 15,007 on account of savings in consumption consequent on the adoption of the incandescent light.”

Carried.

The Corporation at their meeting held on the 22nd April 1895, sanctioned the recommendation of the Standing Committee.

With reference to paragraph 3 of the Corporation's Resolution No. 981, dated 22nd April 1895, the Acting Commissioner handed in the draft new contract with the Gas Company, and the Secretary was requested to read the proviso which had been added to section 12 securing a reduction in the price of gas if inferior or cheaper gas could hereafter be produced with the same amount of brilliancy as in the case of the better gas. The rates to be paid under the contract are Rs. 5 per thousand cubic feet less 5 per cent.

Ordinary whole month lamp	Rs.	83	0	0	per annum.
Part time do.	„	66	0	0	„
Incandescent light whole time	„	70	0	0	„
Do. part time	„	56	12	0	„

The Committee expressed their approval of the proviso in question, and the Secretary was directed to return the draft to the Acting Municipal Commissioner accordingly.

Nothing definite has as yet been decided about lighting the city with electricity.

The question of lighting the Private Streets was disposed of in accordance with the legal opinion obtained on the subject (see under the heading of legal opinions.)

1. The current contract with the Gas Co., is dated 1st July, 1895, and will last for a period of 10 years from that date.

Lighting of
Private
Streets.

Details of
lamps, &c., in
Bombay.

2. The work of converting the ordinary gas lamps into incandescent gas lamps was commenced as soon as the contract was signed, and completed within one year.

3. The ordinary gas light gave light equivalent to only 11 candle power, while the illuminating power of the present incandescent gas light is 25 candles at the lowest.

Power of
incandescent
gas lamps.

4. There are now 3,920 gas lamps. Out of these 736 are what are called whole month lamps, *i. e.*, they are lighted throughout the night during the entire year. The rest, *viz.*, 3184 lamps are what are called part month lamps, *i. e.*, they are not lighted on moonlight nights during the dry months of the year. A whole month lamp is lighted for 3907·85 and a part month for 3102·75 hours per annum.

Number of
gas lamps in
Bombay.

5. In addition to these gas lamps, there are at present 1,768 kerosine oil lamps, out of which 1,332 lamps are part month lamps, and 436 lamps whole month lamps. For the last 10 years, this lighting is carried out departmentally and only 150° Snowflake oil is used.

Kerosine
lamps in Bom-
bay.

THE WATER SUPPLY OF BOMBAY.

In May 1824, there was a water famine in consequence of which the watering of the roads within the limits* was stopped and instructions were issued to allow of free access to all public wells. Captain Dickenson (then the Revenue Surveyor) informed the Bench that he had received general instructions from Government to convey the rain water running from any of the high roads into the tanks and Reservoirs and that those measures were in progress. At a meeting of the Quarter Sessions held on 6th October 1824, a letter was read from Government requesting the opinion of His Majesty's Justices as to the measures which might be considered desirable and practicable to diminish and control the consumption of fresh water in the Island.

Water famine of 1824.

The Bench after mature deliberation came to the following conclusion :—

“That the Bench is of opinion that it would not be advisable to impose any restrictions at present upon the ordinary expenditure of water from the public tanks by the inhabitants, for domestic purposes, further than not to allow them to wash themselves or their clothes at the Reservoirs or in their immediate neighbourhood but to take the water for such purposes to their own houses. In order to secure which the Government should be recommended to direct the Police Magistrates to station peons at the principal wells and tanks.

Deficient water supply.

2. “That no private wheels be permitted on the public tanks this year, nor the water taken away in great quantities for the purpose of cultivation.

3. “That no water fit for domestic purposes be on any account allowed to be expended on the streets or roads.”

The Bench also deliberated on the expediency of stopping all masonry work, but reflecting that the adoption

* In those days the Town was divided in two parts, *i. e.*, “within the limits” and “without the limits”.

of this measure would throw out of employment a great number of the labouring class of almost every description and consequently increase the public distress, did not recommend it.

Water
famine of
1845.

In 1845, Government were again alarmed at the deficiency of the water supply of the Town, that a Committee composed of Doctors Graham and Leith were appointed to report on the state of the wells in the Island, the quality of water in them, and the quantity remaining for consumption. Both these gentlemen submitted their report, in which they acknowledged the great want of water prevailing in the Town and the great distress felt by the people from the deficiency; they pointed out, moreover that the water was, as a rule, bad in quality, in some instances brackish, and in others, tainted by the Drainage from the streets. The following were the recommendations made:—

Use of wells.

“That the use of some private wells in Girgaum should be secured for the public by compensating the owners; that the wells on the Esplanade where cattle were watered should be reserved for man; and that other wells in the same locality which had been closed should be reopened.”

Three days after this report was sent in, the Government passed a resolution calling upon the Chief Engineer for the time being to report on the subject.

Before however, the Chief Engineer submitted his report, one Mr. L. C. C. Rivett of the Civil Service proposed a remedy for the evil in his project on the practicability of obtaining a supply of good water for the native Town of Bombay.

Collection
of rain water
during the
monsoon.

Mr. Rivett pointed out that it was hopeless to attempt to add to the supply by means of wells; that in order to keep the tanks in the Town full up to a certain level during the whole year, the only plan was to collect rain water during the monsoon; and that the principal desiderata were “an elevated position for a reservoir” “a large surface from which to fill this reservoir” and “facility of conveying the water from this reservoir to the tanks in question.”

Mr. Rivett wrote:—“The principal points at which, at first sight present themselves for such an object appear

to be Nowroji Hill at the back of the Goal, the Hill above Mazagaon, the Chinchpokli Hills, the Hill above Parel, Malabar Hill adjacent to the Parsi Cemetery and the Hill above Colonel Dunstervilles' House." Calculating the areas of the important tanks on which the Town depended for its supply, Mr. Rivett found they amounted to 6,72,000 square feet and he considered it would be necessary to supply each tank with water to the depth of 16 feet. Proceeding then on the supposition that the rainfall was 6½ feet in the year, and that only half of it could be collected, and assuming that the reservoir should hold a 3 years supply he found he should require a gathering ground of 240 acres. This would enable him to collect 20,00,00,000 gallons. As none of the sites mentioned offered this extent of collecting area, he proposed that a reservoir should be built on a hill standing on the Peninsula called "The Neat's Tongue," better known as Trombay."

Proposed
Reservoir at
"The Neat's
Tongue"
(Trombay.)

He estimated the cost of the work at £68,940 or about 7 lacs of rupees. No action was taken on Mr. Rivett's proposal.

Then came the project of Colonel Jervis, the Chief Engineer, it was :—

"To provide three reservoirs in the following situations which afford sandstone strata, which are saturated with water throughout the year—1st, the Dhobee's Tank on the Esplanade; 2nd, some eligible spot to be purchased in the Girgam Oarts; 3rd, the Cocoanut Oarts of Mahim. The first for the supply of the Fort; the second for the supply of the Native Town from the verge of the Esplanade to a line running east and west from the Mambadevi Tank; the third for the supply of Parel, Byculla, Mazgaon and the native town, north of the line above mentioned. The water to be pumped from the reservoirs by steam engines and conveyed through iron pipes to the different quarters. The reservoirs to be covered over by the engine rooms and other buildings to prevent evaporation and to preserve the water pure."

This scheme also fell to the ground. On the 24th September 1845 Government directed the attention of the Court of Petty Sessions to the subject of the water supply of the Town and requested them to consider the measures to be taken for husbanding, the supply of water, and for keeping it pure and wholesome.

The Court of Petty Sessions reported that in order to prevent waste, the tanks in the Town should be guarded by peons; that a spring, which there was at the Cooperage

Guarding of
Tanks by
Peons.

should be reported on; that the shipping should be made to water at Elephanta or Salsette; and that Government should issue a proclamation which was practically to the effect that the people should not drink more water than was good for them, and that they were not to spill more in the act of drinking than they could possibly help. The people were allowed to take away as much water as they wanted, but having got it into their houses, they were to take great care of it.

Proposed
Reservoir at
Gowalia Tank.

In 1846, Captain Turner submitted, yet, another project, it was to intercept the rain falling—1st on a portion of that side of Malabar Hill which faces Back Bay; 2nd on the hill near that on which the Parsi Tower of Silence stands; 3rd on some ground lying directly north of the Gowalia Tank. Having intercepted the rain, Captain Turner proposed to lead it into a reservoir 400 feet square to be built close to the Gowalia Tank. The total supply calculated to be obtained from this project, which was probably intended for only a portion of the Town, was 2,90,00,000 gallons, or, as Captain Turner put it, sufficient at the rate of 5 gallons a day for 62,222 people during 90 days.

This project of a short life and a merry one also fell through.

The Two
Tanks at Dun-
can Road.

The water supply of the Island continued to be a source of great anxiety, and tanks were built, to impound water. The history of the two tanks at Duncan Road is interesting. They were built previous to the year 1823, and were originally supplied with water conveyed by means of an aqueduct from the Cowasji Patel Tank. The name of Major Hawkins appears to have been connected with their construction. He was apparently an officer in the service of the East India Company and was engaged in superintending the construction of the tanks for Government. Those tanks, it appears, were made partly at any rate, from money bequeathed in trust by *one Huslaji Subanji (a mahomedan gentleman) and the balance required for their construction as well as for the construction of the aqueduct was probably provided by Government. These tanks appear to have been from the very first, intended for, and, devoted to, the use of the public.

* Refer "Bombay Samachar," 24th May 1824.

To wards the hot weather as water became scarcer, the supply from the Cawasji Patel Tank was insufficient and in consequence of this, one Mr. Framji Cowasji, then a very wealthy Parsi Merchant, seems to have proposed to Government that he should be allowed to undertake the supply of water to the tanks in question. For this purpose, he purchased the Mugbhat Oart, in which he sank three large wells which he fitted with the necessary apparatus, *viz.* a Steam Engine and four wheels with cattle to draw water, and a channel for carrying the water into the aqueduct already made from the Cowasji Patel Tank, at an outlay of Rs. 30,000 and a monthly charge of about Rs. 200 under the guidance of Major Dickinson.

As some recognition of his public spirit in undertaking the expense of this charitable work and of maintaining the supply of water for the future, Government in the year 1824, on his application, consented to relinquish the Government tax on the trees (cocoanut palms) then growing and thereafter to be planted in the Mugbhat Oart, on the condition that such exemption from tax should cease in the event of the aqueduct from whatever cause not being supplied with a sufficiency of water from the Oart.

Mr. Framji Cowasji continued to supply water for the tanks in Duncan Road from the wells in Mugbhat Oart up to the time of his death which occurred on the 12th February 1851, having, however, in 1831, made an arrangement with Government for securing the supply permanently by making the expense a charge upon other valuable property. This arrangement came about in this manner:—In 1831, Mr. Framjee Cowasjee was lessee of an estate in Salsette called the Pawai Estate, on which he had expended large sums in agricultural operations and was desirous of converting his estate into freehold. In October of that year, he accordingly proposed to Government that he should be allowed to purchase the annual rent of Rs. 4,600 which he paid as lessee of the Pawai Estate for 10 years purchase *viz.*, Rs. 46,000 and that the property should be conveyed to him as a freehold; and he stated that if Government sanctioned this enfranchisement of the Pawai Estate he intended to charge upon that estate, in perpetuity, the expenditure of keeping up the water supply to the Duncan Road Tanks.

Eventually Government agreed to this proposal and by a deed dated 15th February 1837, granted the Pawai Estate to Mr. Framji Cowasji as freehold, he covenanting to execute such deed for securing the due supply of water to the Duncan Road Tanks as might be deemed reasonably expedient by the East India Company. Accordingly on the 20th September 1837, Mr. Framji Cowasji in fulfilment of his covenant executed another deed, whereby he granted the rents, issues and profits of the Pawai Estate to the East India Company, their successors and assigns subject to a proviso that, so long as he (Mr. Framji Cowasji) his heirs, executors, administrators and assigns should duly continue to keep up the supply of water to the two Tanks as in the deed prescribed, he and they might continue to enjoy such rents, issues and profits as though the deed in question had not been executed.

Mr. Framji by his will appointed his sons Mr. Pestonji Framji and Mr. Nanabhoy Framji, trustees for the purpose of carrying on the charity after his death, that is to say for the purpose of maintaining the supply of water from the Mugbhat Oart to the two Tanks; and they have more or less regularly continued to do so until recently. It is believed, however, that they have by no means applied to the purposes of the Trust all the monies which they have from time to time received by way of income from the Mugbhat Oart, and contributions from the Pawai Estate on account of this Trust. Mr. Pestonji Framji is now dead and Mr. Nanabhoy Framji is the present trustee. The estate of Framji Cowasji was the subject of litigation in an administration suit instituted by members of the family against Pestonji Framji and Nanabhoy Framji, his executors, and by the decree passed in that suit all the properties belonging to the estate were directed to be sold.

The actual extent of the charge created on the Pawai Estate for keeping up the water-supply to the Two Tanks being somewhat doubtful, the matter was argued in the High Court in an administration suit with the result that by an order made in that suit on the 23rd December 1880, it was held, that for the purpose of supplying water to the Tanks in question, "the lands and hereditaments of the Testator Framji Cowasji in the proceedings mentioned situate in Salsette and comprised in and granted to him by a certain indenture bearing date the 15th day of February

1837 and made between the Honourable East India Company of the one part and the said Testator of the other part are chargeable with such amount only as is actually necessary to defray the expenses of keeping up the supply of water to the said reservoir after applying to that purpose the rents, issues and profits of the Mugbhat Oart mentioned in the Will of the said Testator.

There were further petitions to the Court on the subject, but whatever the result may have been, it is of no interest to the Municipality as by Section VI of Act XIV of 1842, the Governor in Council was empowered from time to time by proclamation "to declare what tanks or wells shall be deemed public and also which of such public tanks or wells may be used for the purpose of bathing and washing linen therein. By a proclamation dated 11th April 1854 made in pursuance of this power it was declared that certain tanks and wells enumerated in list No. 1 might be used for bathing or washing purposes, but that in those referred in list No. 2, bathing or washing of clothes would be allowed. In list No. 2 the two tanks are found described as "2 wells (circular) Framji Cowasji new town district, situation at the junction of the Grant and Duncan Roads in charge of the Superintendent of Repairs."

A fountain has now been erected on the spot and bears the following inscription :—

" This fountain was erected by the
Municipal Corporation of Bombay
in the year 1899
to mark the site of an old well
built partly from money bequeathed by
a person named Huslaji
and

partly at the expense of Government.
Water was supplied to this tank from
certain wells on the Mugbhat Estate of
the late Mr. Framji Cawasji Banaji."

Act XIV of 1856, Section 73, provides that all public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnel, pipes, pumps and other water works existing &c. &c. shall be vested in and belong to the Commissioners (*i. e.* the Municipal Commissioners mentioned in the Act.)

Captain (afterwards Col.) Crawford submitted three projects :—

The first was to intercept the water of the stream which formerly took its rise near the village of Vehar, at a point

Tanks, Wells
&c., vested in
the Municipal
Commissioner.

Reservoirs
at Kurla.

not far from Kurla. Here the water was to be pumped up and brought under pressure into Bombay by iron pipes. The dam was not to be built to retain any large quantity of water, but merely to give sufficient depth to pump from. This supply every year could last so long only as the stream continued to flow, or from the setting in of the monsoon up to about December. For the supply of the town during the other months a series of reservoirs were to be formed along the course of the stream above the dam, and as the stream dried up, the water in these reservoirs was to be led down to the lowest one where the pumps were to be placed.

An alternative scheme suggested by him was to drain the Kurla valley by a system of underground channels to the point where the water was to be pumped up.

His second project was to erect an engine at a favourable point on a Hill in the village of Vehar near Kurla (12th milestone from Bombay) and to convey water to Bombay by pipes. This project was estimated to cost £ 52,063.

His third project of 1850, was the raising of the water near Kurla by mechanical contrivances to the height of 80 feet. He considered it would be better to avoid the cost of pumping, to go higher up the stream and to build his Dam at a point 80 feet above the level of the Bund. If after a time the supply did not prove sufficient, he recommended that the construction of a series of Bunds still higher up the stream should be undertaken, and if even this failed to meet the demands of the Town, then the water in the lower part of the Valley should be utilized by the help of pumps.

In 1851, Lieut. De Lisle reported on Capt. Crawford's project. There is no doubt that the present works are merely the embodiment of Capt. Crawford's ideas. However this may be, Lieut. De Lisle's reservoir with a Dam of 50 feet high was to impound in round numbers 1,00,00,00,000 gallons and he proposed in the event of this supply not proving sufficient, to raise the Dam ten feet higher and thus to obtain double the above quantity. He assumed a yearly rainfall of 76 inches of which 16 inches would be lost by evaporation, absorption etc., and of which the remaining 60 inches would be available over an extent of gathering ground of seven square miles. On this

data the quantity of water flowing into and falling in the lake would amount to 6,00,00,00,000 gallons or 6 times the quantity required to be impounded by the 50 feet dam. The water was to be brought into the town under pressure by a cast iron pipe 24 inches in diameter, 14½ miles long and the whole cost of the work was calculated to be £ 1,20,000. There was no end of projects submitted, as there is a record of another one from Mr. Conybeare. He was of opinion that water obtained from surface collection being unfit for drinking until filtered, the springs in the littoral conglomerate formation in the Island should be made available to the Town. He proposed that wells should be built in the water bearing strata and that these wells should be connected by iron pipes with large reservoirs to be made in the solid strata underlying the superficial deposits. Mr. Conybeare proposed, that many of the tanks and reservoirs should be roofed over and that they should be supplied with water from filtering wells. He also suggested that spring bearing strata in Salsette should be thoroughly examined before recourse was had to surface collection.

The Board of Conservancy in forwarding Mr. Conybeare's report to Government took an altogether different view of the subject. They expressed doubts as to whether a sufficient quantity of water could be obtained in the Island in the manner proposed by him and they added that even if it could be obtained, it would require to be sent into the Town at great expense and from many sources. They were of opinion that none of the water in the public tanks excepting one could be considered wholesome that they were all more or less filled by drainage, at the best of times impure, and subject to the taint of a large town.

In 1855 Mr. Conybeare submitted his second report on the water supply of Bombay. It was on this report, that action was at last taken, and that the Vehar Water Works were carried out. Forming part of Mr. Conybeare's project was a distributing scheme for carrying the water by iron pipes to nearly all parts of the Town. In most of the Districts the delivery was to be on the constant service system with all the modern conveniences of fire plugs, stand pipes, &c. The outlying Village were to be supplied by means of draw wells kept constantly full by

V e h a r
Water Works.

small stoneware pipes or masonry conduits, in which the water was to be admitted from time to time through sluices in the main pipe so arranged as to deliver the water without pressure. The total cost was estimated at £ 2,45,916 which amount, as it will hereafter appear, was considerably exceeded.

After Mr. Conybeare's project had been prepared it was submitted to Capt. Crawford and he on the 22nd April 1855 gave his general approval to the proposed works. Mr. Conybeare was then sent by Government to England where the designs for the outlet works were altered, and some modifications were made in the plans. The pipes were selected and sent out under his directions. He never returned to India. The contract was drawn up in England by the Hon'ble Court of Directors and was given by them to Messrs. Bray and sons and Champney, of Leeds. Mr. Walker was appointed Resident Engineer and Mr. Conybeare was made the referee for all disputes between the Government and the contractors. A great deal of correspondence took place between the Bench and Government as to the extent of the liability of the Bench in respect of the Vehar Water Works. In 1857 Government were distinctly informed that the Bench were not prepared to pay more than Rs. 25 Lacs for this purpose.

In 1856 (2nd December) Mr. Secretary Hart in a letter to the Justices stated "I am commanded to observe, H. M.'s Justices will recollect that the letting of earth works which had been deprecated both by the Government and the Bench has been let by the Honorable Court of Directors without reference to the Government of Bombay." In 1856 the Bombay Government stated to the Board of Directors that the Government of India had authorised the construction of the water works on the understanding that the total sum to be advanced will be Rs. 25 Lacs ; if a greater outlay than Rs. 25 Lacs should appear to be requisite, the Bench to have an opportunity of considering the point of difference.

On the 1st August 1856 Capt. Rivers informed the Bench that the earth work and masonry were let for £ 67,230 as against £ 17,411 Mr. Conybeare's estimate. That nearly £ 57,000 had been saved in the cost of the casting by reducing the size of the mains from 41 inches to 32 inches.

On the 15th October 1856, the Vehar water works Committee reported that over 33 lakhs had at that time been either spent or contracted for. In consequence of this a memorial was sent to the Secretary of State for India in Council urging that the excess over Rs. 25 Lacs be wholly borne by the Government of India, as it was caused by the acts of the Hon'ble Court of Directors who were regularly informed of the progress of the works under the management of Mr. West, yet they in opposition to the remonstrances of the Bombay Government and the Bench let the works in England at a ruinous price and made no stipulation for the payment of the actual outlay, whereby Rs. 73,645-8-0 were recklessly lost and handed over to the contractors. By Mr. Conybeare, the Bench and Board of Conservancy were regarded as obstructions and he took credit for having had the works let in England. The contracts were so drawn up that neither the Government, Bench, or Board of Conservancy had any control over the Contractor or his works. This was entrusted to a person wholly unfit for the office. Col. Crawford had stated that the whole of the work could have been completed for 25 Lacs of rupees and the local Government and Bench were restricted by the Acts of the Courts of Directors from any control over and from the letting of the works.

Besides this question, the subject of the injurious consequences likely to arise from conveying water by leaden pipes from the Vehar water works was considered, and Government was informed that the service pipes and cisterns for the conveyance and deposit of the Vehar water would be tinned inside.

In 1859 Government informed the Bench that in consequence of the representations which have been submitted against the use of leaden pipes, measures have been taken to obtain from England the necessary supply of tinned piping.

It was intended to introduce Vehar water into the Town in 1858, but as there was no urgent necessity for doing so, the water was brought in the year following.

In consequence of the low level of the surface of the lake at the expiration of the monsoon of 1871, it was found absolutely necessary to enforce every means of

Introduction
of Vehar
Water in
Bombay.

Restricted
supply of
water in 1871.

preventing waste ; the watering of roads by means of Vehar Water was for the most part stopped, public Urinal connections were removed altogether, and all irrigation services were cut off (unless the water was supplied through a meter), but notwithstanding all these precautions the low pressure in the main was most sensibly felt all over the Island ; the water would not in most cases rise to the first floor, whereas in the preceding year it had gone up to the third. This together with rapidly decreasing quantity stored up in the Lake at Vehar, induced Dr. T. Blaney to make a proposition to the Bench that the Tulsi Valley should be considered as an auxiliary to Vehar, which was carried unanimously.

Dipping
Wells in the
City.

In the year 1871 there were 150 dipping wells, drinking fountains and stand pipes in the city. Thirty two handsome stone and iron drinking fountains was generously presented by Mr. Cowasji Jehangir Readymoney C. S. I. worth some Rs. 20,000 and these were erected at various convenient points in the Island.

Embankment No. 3 of the Vehar Lake was commenced by the Public Works Department, but was subsequently handed over to the Water Works Department of which Mr. Conybeare C. E. was the Consulting Engineer. For some reason or other this embankment was not made water tight as it never held water from the time the lake filled. The quantity which leaked at first was not sufficient to cause any serious uneasiness, but year after year, the leakage increased, until at last it became so serious that in 1865, Government appointed a committee of Military and Civil Engineers to report on the best remedial means to be adopted to stop the leakage. The Committee decided that the whole of the inside face of the dam, above low water, should be coated with two or three feet of puddle.

The work was completed before the rains of that year when the embankment was pronounced to be in a tolerably safe state. The cost was about Rs. 46,000.

Mr. Arthur Crawford, the Municipal Commissioner in his report of 1869 states :—

“ As to the condition of the Vehar Water Works Department, I regret to be obliged to state, I found, to my great surprise, that it was not (if it ever has been) properly prepared for a serious job of this kind. There were no suitable appliances of

any kind. The only pulley block was the private property of Mr. Pyne, the Chief Inspector and was barely equal to lift one length of pipe, so we had to borrow a travelling crane from the Baroda Railway Company. The led smelting pots were so small that only one joint could be run at a time. There was no appliance for breaking up thick piping. Added to this I consider it unpardonable that for a very long time there was no proper reserve of branches and bends, as bends were in use, however improbably."

The question of affixing meters to economise the supply of Vehar Water was first considered in the year 1866. Every mill, factory and company was then forced to affix a meter. Meters were affixed to all Government connections. Every person using Vehar water for irrigation purposes was also forced to affix a meter. In the case of large chawls or tenant houses, where water was largely wasted, the use of meters was insisted upon. The result was very satisfactory.

In consequence of the affixing of meters to mills it was ascertained that the daily consumption of water in the year 1866 was 2,50,000 gallons or about 3 per cent of the entire water supply of Bombay at that time.

In 1868, Mr. Russel Aitkins, the Executive Engineer to the Municipality, in compliance with instructions from Mr. Arthur Crawford, the Municipal Commissioner submitted a report on the extension of the Bombay Water Works. In his report he proposed four different schemes for consideration. They were as follows :—

The Shewla scheme.
The Kennery scheme.
The Tulsi scheme.
and
The Pawai scheme.

Affixing of
Meters.

The Shewla
Scheme.

The Kennery
Scheme.

The Tulsi
Scheme.

The cost of the Shewla scheme was as follows :—

			Rs.
Reservoirs and Works	....	....	10,97,292
Steel main 56 miles long	....	....	1,24,78,611
Land	....	....	449,280
Total			1,40,25,183

The Kennery scheme provided for a total annual supply of water of 4,201 million gallons.

The Tulsi scheme comprised of the construction of a dam in the River Tasso just below the village of Tulsi, whereby the waters of the upper portion of that river could be diverted into the Vehar Lake, which would thus having its gathering increased by 1,600 acres so that the supply from Vehar might be increased.

The Pawai scheme was to cost Rs. 35½ Lakhs. In forwarding Mr. Aitkins report to Government on 12th October 1868, the Municipal Commissioner said "I must reluctantly pronounce the construction of the Shewla scheme pecuniarily impossible to Bombay at present" and Mr. Crawford recommended the carrying out of the Kennery scheme at a cost of Rs. 41½ Lakhs.

Government then appointed a Commission of the following gentlemen to take evidence and report on the water supply and the Drainage of Bombay :—

The Hon'ble A. R. Scoble, Chairman.

Col. W. Kendall.

Lieut. Col. J. S. Trevor.

Dr. W. G. Hunter M. R. C. P.

With reference to the former scheme, the duty of the Commission was to consider Mr. Russel Aitkins schemes for increasing the water supply and to report on their relative general advantages, and to examine and discuss the details of that which they might consider most suitable, should they be of opinion that either of them was calculated to effect satisfactorily the object in view.

The Commission considered the Shewla scheme to be too gigantic a work to be undertaken by the Municipality.

Of the Kennery and Pawai schemes, they said, "The Kennery and Pawai schemes are both open to the objection that they are mere patches upon Vehar and incapable of extension from time to time to meet the growing requirements of the city. The enormous height of the impounding dam at Kennery and the quantity of valuable land that would be submerged at Pawai, are additional reasons against the adoption of either of these projects; and the Commission are of opinion that neither of them is calculated to effect satisfactorily the object in view."

To sum up the report of the Commission, they were of opinion that by greater economy of distribution and the addition of Tulsi Water much could be done to alle-

viate the evils of the scanty water supply of Bombay and that no time should be lost in securing a full and permanently reliable supply of water to the Town. Even with the addition of Tulsi the supply from Vehar would be sufficient only for an intermittent service, a minimum supply for domestic use, and an unreliable supply in case of fires. A continuous service, at full pressure, is what is required for Bombay, and Bombay should be satisfied with nothing else. This the Commission considered would be most securely obtained by a low level reservoir from which the water should be brought by a masonry conduit to Bombay and they recommended that surveys should be made without delay with a view to carrying out this proposal. With such a reservoir not only could the supply of water to Bombay be made to keep a head of any possible increase of the population, but all the water not required for Bombay might be made available for the service of the Towns, on the road, for the supply of Railways, and for Irrigation. In this point of view, the work might fairly be regarded as an Imperial work, and not one of a merely local Municipal character.

On this report of the Commission, Government on the 31st March 1870 issued a resolution rejecting the shewla scheme; that the construction of the Kennery and Pawai schemes would only be a half measure; and that a very substantial addition to the Vehar Lake, at an expenditure which is within the means of the Municipality might however, be made by the execution of Tulsi scheme and Government concurred with the Commission that this would be the best practical arrangement.

Government
approved of
Tulsi Scheme.

On receipt of this Government Resolution, the Municipal Commissioner took action and had a careful survey made of the Tulsi Valley.

In July 1870 the plans and estimates were ready, and the Bench of Justices then appointed a Committee composed of Major General Tremenhare, R. E., Mr. Ormiston, C. E., Mr. Lemesurier, C. E. and Dr Lyon, to report on the scheme.

This Committee came to the conclusion that not more than four gallons per diem per head of the population could be obtained from the Tulsi Valley and they estimated the cost of the work to secure this supply at Rs. 25

Lacs. On the general question of water supply they expressed themselves thus:—

“We are of opinion that Tulsi should not be undertaken unless it be shown conclusively that no better scheme is practicable. This has not been done yet; and we therefore recommend that in the first place the Kennery scheme be carefully worked out as soon as possible. To do this, it will be necessary to have an accurate contoured survey of the Valley &c. If while this is in progress, Capt. Tulloch can find another site more favourable, he should report on it.”

In 1871, Mr. Rienzi Walton, the Executive Engineer was called upon to report on the capabilities of the Tulsi Valley.

Mr. Walton was of opinion that about 1,34,00,00,000 gallons yearly or 36,70,000 gallons daily could be obtained for use, this would be equivalent to $4\frac{1}{2}$ gallons per head per diem during a 12 month for the supposed population at that time.

In his first project, Mr. Walton did not propose to impound any water for use in the Tulsi Valley but to throw the entire supply into the Vehar Lake. In his second project, it was proposed to impound water to such a height (64 feet) as to utilize the ridge of hills between Vehar and Tulsi as a Waste Weir so that the surplus water after the new reservoir became full, might pass into the Vehar Lake.

No. 3 project differed from No. 2 only in having higher dams (74 feet) and consequently increased storage.

Commence-
ment of Tulsi
Works.

In the year 1872, the Tulsi Water Works, as an addition or auxiliary to Vehar was commenced. The portion of the Tulsi Water Works necessary to divert the flow of the Tassoo river into Vehar *i. e.* the Dam across the Tassoo the open cutting and the tunnel under the dividing ridge, received the sanction of Government on the 25th March 1872 as per Government Resolution No. 1378.

The following is an extract of the Government Resolution:—“But there does not appear to be any objection to accede to the wish of the Justices to proceed at once with those parts of the scheme which have been agreed to *i. e.* Mr. Walton’s Tassoo Dam and Mr. Walton’s tunnel and channel, without, however, now undertaking any sluices, or arrangements for such, either in the tunnel or channel.”

This work was sanctioned on 8th April 1872. The contract for it was given to Messrs. Scott McClland and Co., and the work was commenced on Wednesday 10th April 1872 under the supervision of Mr. O. Deacon, Clark, Assoc. Inst. C. E., Acting Deputy Executive Municipal Engineer.

Application was made to Government for 5 lacs of Rupees. Government offered the Bench four lacs only which amount is referred to in clause VII of Act II of 1872, for the purpose of providing a storage Reservoir at Tulsi.

A large portion of the rainfall of the Tulsi Valley was passed into the Vehar Lake in the rains of 1872.

As the scheme then stood Tulsi was only an auxiliary to Vehar.

It would be interesting to know that Mr. Russell Aitkin originally suggested in 1868, that the Tulsi Lake should be constructed as an auxiliary to Vehar, and Dr. Blaney in his letter dated 14th July 1869 proposed to make Tulsi an independent source of supply with a Dam 70 feet high and a 24 inch main from Tulsi 21 miles long. On the 4th December 1874, Mr. W. G. Peddar, the then Municipal Commissioner, forwarded to the Town Council, Mr. Waltons and his own final proposals for the Tulsi Water supply project, expressing a hope that a speedy decision may be come to by the Town Council and the Corporation.

The capacity of the Tulsi Lake was estimated at about 1,450 millions of gallons to distribute which, at the rate of 26 gallons per head per diem to a population of 1,50,000 a 20 inch main was considered necessary. The approximate cost of the whole scheme was estimated as under:—

Passing of
Tulsi Water
into Vehar
Lake.

Tulsi Water
supply.

Cost of Tulsi....	Rs.	5,70,000
Cost of Outlet Tower to Tulsi	„	1,20,000
20 inch Main to Malabar Hill ...	„	16,00,000
20 inch main from junction of Warden and Nepean Sea Roads to storage Reservoir ...	Rs.	20,000
Storage Reservoir ...	„	1,00,000
Cost of 32 inch Main to connect Re- servoir with 32 inch Vehar Main	Rs.	1,00,000

Carried forward Rs. 25,10,000

	<i>Brought over</i>	Rs. 25,10,000
15 inch Main from top of Malabar Hill as far as Church Gate street.	Rs.	2,50,000
12 inch Main from Church Gate street to Middle Colaba	Rs.	85,000
9 inch Main from Middle Colaba to Light House	Rs.	37,000
Cost of catchment Drain at Vehar ..		50,000
Cost of new outlet at Vehar....		1,78,713
		<hr/>
		31,10,713
10 per cent. contingencies ..		3,11,071
		<hr/>
	Total Rs.	34,21,784

The proposal of the Municipal Commissioner was on 16th January 1874 referred by the Works Committee for the professional opinion of a Committee consisting of Colonel Fife R. E., Wilson Bell Esq., and T. Ormiston Esq. C. E.

The following is the report of this Committee:—

“ The Committee having previously met in Bombay, proceeded to Tulsi and Vehar on the 4th April for the purpose of examining the works already constructed at these places, and ascertaining as far as possible, by actual inspection, the nature of the ground and the difficulties to be contended with in carrying out the various proposals which have been made from time to time for rendering the reservoirs and the conveyance of the water to Bombay and its distribution as efficient as possible.

“ The Committee on that occasion was accompanied by Mr. Walton the Executive Engineer to the Municipality and has since met on various occasions to discuss the subject and obtain as complete information on every point as practicable.

“ The following are the conclusions at which the Committee has arrived on the principal point to which its attention was requested by the Commissioner.

“ First.—That the Tulsi reservoir should be provided with an independent main 22 inches in diameter, to Bombay.

“ Second.—That the Town supply from Tulsi should, as a rule, be passed in the first instance to a service reservoir on Malabar Hill, for convenience of distribution to the higher levels, but that a direct connection should be made between the Tulsi and Vehar mains at Grant Road, in order to admit of the Vehar distributing pipes receiving a supply of Tulsi water in the event of interruption in the Vehar supply.

“ Third.—The service Reservoir at Malabar Hill should be of the capacity of the smallest given in No. 3 Estimate (*i. e.* to contain one day's supply to 6,50,000 people at 17 gallons a head

—estimated cost Rs. 1,23,530) attached to the Executive Engineer's report, dated 1st April 1874.

“ Fourth—The improvement to the water supply contemplated in Mr. Peddar's report, given in the Blue Book of 1873, can, with the modifications in the arrangements now recommended by the Committee be effected for about 40½ lakhs of rupees, exclusive of any charges which may be incurred for land.”

Then the Committee entered into the details of how the figure of 40½ laks had been arrived at.—(see Blue Book issued on December 22nd 1874.)

In December 1874, Mr. Peddar the Municipal Commissioner, submitted for the consideration of the Town Council definite proposals for the completion of the Tulsi water supply, estimating the cost at Rs. 41,70,000, excluding Rs. 50,000, for catchment drains to increase the area of the gathering ground at Vehar.

In his annual report for 1875, the Municipal Commissioner stated :—

“ No progress was made during the year with the Tulsi Works, the main dam having been raised to its full height, and it being impossible to go on with the rest of the work till the question of the manner in which the project should be completed was decided.

“ I am glad to add that this is now the case. After long and careful discussion Mr. Walton's original designs for the work have been fully approved by the Government of Bombay and Government of India ; the latter Government has agreed to advance the necessary funds on very liberal terms accepted by the Corporation ; the work will now be pushed on as rapidly as possible and I hope there is a chance that it will be completed, and the Tulsi water brought into city, by the end of the hot weather of 1878.

“ The long delay and vigorous criticism of a project finally accepted without modification has caused a loss of time which cannot but be regretted, as it has, delayed by at least a year, the much needed improvement of the water supply ; but on the other hand, the advantage has been gained that the Corporation and the public will be fully convinced that the project adopted is a thoroughly sound one.”

The Tulsi project included the construction of the Malabar Hill Reservoir.

To summarise the total cost of both the Vehar Water Works and the Tulsi Works they work out as under :—

Vehar Water Works	..	..	Rs. 45,42,394
Tulsi Water Works	..	..	„ 37,61,888

Vehar Works,
Tulsi Works,
cost of.

The Vehar water works is a debt charge which is paid by the Corporation to Government by monthly instalments of Rs. 14,600 the total debt is repayable by interest. Counsel's opinion on the subject will be found under that heading.

Capacity of
Vehar Lake.

Vehar Lake.—Area of gathering ground 2,500 acres; No. of Dams 3; height of lowest draw-off on the T. H. D. 232·5; capacity available for supply when the lake is full 8,800 million gallons; amount of water available (in 1900) 4,400 million gallons; mean rain fall during past 38 years (ending 1900) 84·70 inches, and during past 7 years 97·10 inches. This is the first of the lakes constructed for the supply of the city, it was finished in 1860. The water is conveyed to the city by means of cast iron pipes of 24 inches and 32 inches in diameter laid generally above the level of the ground. The 24 inch pipe discharges directly into the distributing mains and the 32 inch into the Bhandarwada Reservoir.

Capacity of
Tulsi Lake.

Tulsi Lake.—Area of gathering ground 1,385 acres; number of dams 2; height of lowest draw-off on the T. H. D. 400; capacity available for supply when the lake is full 2,306 million gallons; amount of water available (1900) 600 million gallons; mean rainfall during the past eighteen years (ending 1900) 103·82 inches; mean evaporation 36½ inches; rainfall (in 1900) 44·80 inches. This work was completed in 1879. The water is brought into the city by means of a cast iron pipe 24 inches in diameter, laid generally above the level of the ground and discharging into the Malabar Hill Reservoir.

Re-Payment
of Tulsi Loan.

As regards the Tulsi Loan, the circumstances are different. Government advanced the Municipality Rs. 36 lacs (Act II of 1880 to amend Act II of 1872) bearing interest at the rate of Rs. 4½ per cent. The whole of this loan was paid off in the year 1893 by raising another loan in the open market @ Rs. 4 per cent thus effecting a saving to the Municipality of ½ per cent.

The Pawai
scheme.

Even with the addition of Tulsi, the cry for more water did not abate, as ten years after its completion, the Standing Committee was presented with the following:—

“ We certify that, having regard to the present state of the Vehar Lake, the probable replenishments thereof by means of average rainfalls and the quantity of water required for the increasing needs of the city, it is, to the best of our judgment

absolutely necessary that special measures should be taken to provide against an almost certain deficiency in the supply during the hot weather of 1892, and a possible deficiency during the hot weather of 1891; and we have elsewhere indicated the measures which in our opinion should be taken to guard against the evils which would be occasioned by the present lake supply running short in either of these years."

Anticipated
deficient sup-
ply of water
in 1891.

(Sd.) E. C. K. Ollivant.

„ S. Tomlinson.

18th November 1889. „ W. Clerke.

The measures indicated in this certificate was the Pawai Valley Scheme by which it was intended to secure the water flowing from 1700 acres of ground forming part of the Pawai Estate and situated immediately to the South East of the Vehar Lake. There is a special report on the Pawai project which is available in either the Municipal Commissioner's office or the Water Works Department.

To briefly summarise the proposals, they were :—

1. The construction of a masonry dam with the top water level at 190 T. H. D. and the draw-off at 170 T. H. D. The capacity of the Reservoir to be approximately 580 millions of gallons and its area about 450 acres.

2. The provision of two Worthington Triple Expansion Pumping Engines with Babcock's Boiler. Each pump to be capable of lifting 4 millions of gallons per day 100 feet high.

3. The building of suitable houses for the protection of the machinery.

4. The laying of a 48 inch main to join the new dam, the pumping station, and the existing 32 inch Vehar main with connections to the Vehar 24 inch main, &c.

5. The acquisition of the gathering ground of 1950 acres with the huts &c. and timber thereon; also of the land on the west of the Vehar Saki Road required for the connections to the existing pipe lines.

6. The arrangement of the Pumping Station so that at any time, the additional supply in the Vehar main could be taken. A supplementary estimate was given amounting to Rs. 23,000 for works.

The advantage of this scheme is thus referred to in paragraph 36 of Mr. Tomlinson's report :—

"This pumping scheme has advantages over any gravitation in that the first cost is very much lower and the

second cost—fuel &c.—will only be incurred when the water is actually required, whereas the interest on capital invested must always be paid whether the water is needed or not."

The standing Committee at their meeting held on 20th November 1889 recommended the Corporation to sanction Mr. Tomlinson's scheme for bunding a water supply from Pawai into the Valley below the Vehar Dams, and of pumping the impounded water into the Vehar storage Reservoir and the mains leading therefrom at a cost of Rs. 4,55,000. This estimate was exclusive of cost of land to be submerged admeasuring about 500 acres.

The work was so urgent that within five days of the Standing Committee's recommendation the Corporation at a meeting of urgency sanctioned the project as recommended.

Subsequently a Committee of the Corporation was appointed to consider the question of the acquisition of the ground required, and that Committee reported that it was to the interest of the Municipality financially, that the whole area of 2,070 acres should be acquired. Accordingly the Corporation on 10th March 1890 sanctioned the recommendation of the Committee.

The Health Officer's opinion on the quality of the Pawai water is contained in the following report of his:—

Letter, dated 7th July 1890 to the Commissioner, as under:—

Quality of
Pawai water.

SIR,—I have the honor to submit an opinion on the quality of the water from Pawai and the Goper dam. The water is of better quality than was expected. I ascribe this to:—

(a)—The heavy rainfall.

(b)—The use of the sludge pipe.

(c)—The precautions taken before the rains to remove causes of impurity.

My last examinations show the water to be of fair quality judged by the standards of Vehar and Tulsī.

	Parts per million,			
Pawai—Free ammonia	·04
Albuminoid ammonia	·13
Goper—Free ammonia	·35
Albuminoid ammonia	·15

In my judgment the water may be distributed.—T. S. WEIR,
Health Officer.

The following is the capacity of the Pawai Reservoir:—

Gathering ground above Lake...	...	1334 acres.
Overflow level of Reservoir ...	...	190 T. H. D.
Level of lowest Inlet to Tower	...	165 T. H. D.
Capacity of overflow level ...	...	696 Mills Gallons.
Area of water at overflow level	...	366 Acres.

Capacity of
Pawai Re-
servoir.

Area of gathering ground 1235 acres; 1 Dam; height of lowest draw-off on T. H. D. 165.0; capacity available for supply when the lake is full, 696 million gallons; amount of water available (1900) practically all; rainfall in 1900, 32.97 inches; evaporation, probably the same as Vehar. This may be termed an emergency reservoir, having been constructed to mitigate an anticipated water famine in 1891 before Tansa water was introduced. There is a pumping station in connection with this supply, as the lake is at too low a level to permit of the water gravitating into the city at a sufficient pressure to ensure a proper supply.

The Standing Committee visited the Pawai Lake and their minute will be found on the proceedings of 14th May 1890.

Visit of the
Standing
Committee to
Pawai Lake.

The Pawai scheme had a short and a merry life.

The engines were offered for sale in 1892 but as there were no purchasers they were, dismantled.

The Tansa scheme was first started in connection with a notice of motion from Dr. Blaney which was as under:—

Tansa scheme.

“That the water supply available from the Vehar and Tulsi storage reservoirs being insufficient for the present ordinary domestic wants of the city apart from its trades, industries, sewerage system and increasing population, it is desirable to provide an additional and permanent supply from a high level source which will give the city a continuous service at full pressure, and that the Municipal Commissioner be requested to furnish the Corporation with a scheme for such increased water supply.”

On the motion of Dr. Blaney seconded by Mr. M. N. Banaji the Commissioner was asked to state what sum would be necessary to prepare working plans of Tansa.

Mr. (Now Sir Charles) Ollivant then reported stating that the total cost including one lakh for survey would amount to one crore.

The Town Council accepted the Commissioner's opinion which was forwarded to the Corporation with Mr. Ollivant's

suggestion that Major Tulloch should be invited to carry out the scheme.

The Commissioner's report was referred to the Finance Committee.

It was as under :—

No. 2904 of 1884—85.

TO THE SECRETARY, TOWN COUNCIL.

SIR,—I have the honour to inform the Town Council, with reference to their Resolution No. 339, dated 28th May 1884, and the Resolution of the Corporation No. 1087 of the 10th August 1883, as I have already stated verbally, that no advantage is likely to be gained by waiting for the elaboration of some new scheme of water-supply for Bombay. In my absence Dr. Weir asked the Engineers for certain information, which has still to be supplied; but the fact is that short of the execution of detailed surveys and the preparation of contract plans, Major Tulloch's excellent treatise on the water-supply of Bombay gives all the information that is necessary for a preliminary consideration of the subjects.

2. I have elsewhere incidentally given my reasons for thinking that for the *present* population an additional minimum supply of eight million gallons per diem should be obtained. But in determining what the source or means of supply should be, the wants of the future as well as of the present must be borne in mind. Members of the Town Council and Corporation who have read Major Tulloch's book must be aware that in the opinion of that able officer if any new lake supply is to be resorted to, the Tansa scheme is the one which should be preferred.

3. I say nothing here about Artesian wells, for in speaking and writing I have already expressed my views on that subject, and have made a reference to Government in terms already reported to the Town Council. Assuming that a lake supply giving a minimum of eight million gallons per diem is to be obtained, and that Tansa is the lake to be chosen, I have to point out that the first step which must be taken towards arriving at an accurate estimate of the probable cost of the work is to make provision for a complete detailed survey. As far as I have been able to form an opinion from information supplied to me the outside cost of such a survey (including the preparation of contract plans and specifications) would not be more than one lakh of rupees.

4. But it would be useless to enter upon such a proceeding as this, or to incur any expenditure in connection therewith, unless the Corporation saw their way to carry out the work upon completion of the preliminaries, provided these preliminaries should satisfy them that the project could be carried out within a certain given cost. For present purposes I may assume that

the total cost (including the one lakh for survey operations) would amount to one kror of rupees. It certainly is not likely to be more.

5. To pay off a kror of rupees, principal and interest in 40 years, (interest at five per cent.), an annual appropriation of six lakhs would be necessary. Assuming that nothing will be available for this purpose out of present sources of revenue, I will ask the Town Council to consider how financial provision can best be made.

6. The consolidated rate is now at the minimum fixed by law, *viz.*, 8 per cent.; if raised to the maximum, *viz.*, 12 per cent., the difference would yield six lakhs per annum.

7. The present revenue from water is six lakhs per annum, and the present daily supply may be estimated at 20 gallons per head of population, though in fact it is less. With an addition of 10 gallons per head, we should, at a proportionate increase of revenue, receive Three Lakhs more. I think that this increase may reasonably be expected, partly from the extra quantity available for supply on measurement and partly from a revision of the present scale of water rates.

3 Lakhs.

8. If the present Town Duty on ghee were raised from 6 annas per Bombay maund to 10 annas per Bombay maund (the present legal limit), the increase in revenue would be Rs. 80,000. If one per cent. extra were levied on sugar and one anna extra per candy on firewood and one anna extra per candy on grain the increase in revenue would be Rs. 50,000, Rs. 40,000 and Rs. 30,000 respectively, or Rs. 1,20,000 in all; but the sanction of the legislature would be necessary to all or any of the three last named enhancements.

2 Lakhs.

9. Government might be asked in view of the object to be attained, and the great effort which it must entail on the city, to revise the sum now paid as Abkari compensation, and to raise this sum to an amount corresponding with the Abkari revenue actually collected. This concession would benefit the Municipality to the extent of half a lakh annually. As an alternative, Government might possibly be disposed to advance to the Municipality the total sum required at $4\frac{1}{2}$ per cent., or half per cent. less than the Municipality might expect to pay by borrowing in the open market. The annual payments would thus be reduced by half a lakh of rupees.

$\frac{1}{2}$ Lakh.

10. Application might be made to the legislature on the Municipal Act being amended to sanction the imposition of a special fire rate, which on an average of Rs. 2 per house (though in fact it would be graduated) would amount to at least half a lakh of rupees. For measures against fire, expenditure could not be more appropriately incurred than in improving the

water-supply. Or in lieu of this, and of one half of the increases suggested in my eighth paragraph, an addition of one per cent. might be made to the Consolidated Rate. Such addition would yield one and a half lakhs of rupees per annum.

11. With this brief sketch before them the Town Council will be in a better position to consider what is the best course financially to recommend to the Corporation. Until the question of finance has been considered and disposed of no practical steps can be taken by the Executive. If it be determined that funds are to be provided and the work proceeded with I should strongly advocate the creation of a distinct fund to be called the Tansa Fund, to which any revenue from extra taxation should be credited. Adjustment could then be made from time to time, and people would know exactly what they were getting for their money.

12. As far as I can ascertain the surveys, &c., might be expected to occupy two years and the work four more. I think that in the first instance Major Tulloch should be given the option of carrying out the scheme from beginning to end, if his services can be spared.—I have, &c.

E. C. K. OLLIVANT

Municipal Commissioner.

On the motion of Dr. Peterson seconded by Dossabhoj Framji Esquire :—

It was proposed to accept the Committee's recommendations with regard to the first sum of Rs. 3 lacs. To postpone the consideration of the other proposals and to recommend the Corporation to sanction a grant of Rs. 10,00,000 for the purpose of preparing plans.

An amendment by Mr. G. Geary seconded by Dr. Blaney was carried to the effect that the report of the Finance Committee be forwarded to the Corporation with a recommendation to sanction Rs. 1,00,000 for the survey. The Corporation thereupon sanctioned Rs. 1,00,000 for the survey.

The Tansa
Scheme San-
ctioned.

On the 19th November 1885, on the motion of Dr. Blaney sanction of the Corporation was accorded to the Tansa water scheme for a daily supply of 17 million gallons, at a cost of Rs. 1,23,00,000 and the Municipal Commissioner was requested, to solicit the sanction of Government for raising a loan of the said amount and to request that if possible Government itself would be pleased to advance the contemplated loan as well as to lengthen the time of the repayment of the remaining portion of the

Vehar debt so that it may extend over the period during which the proposed Tansa debt was to run.

On the 10th December of the same year, the Corporation proceeded to consider the Town Council's recommendations for the carrying out of the Tansa Water Works. They sanctioned an increase of 12 annas per cent. in the consolidated rate. The Town Duty on ghee was raised from 6 to 10 annas per Bombay maund. Government was asked to legislate with a view to provide a Town Duty on Sugar of 8 annas per cwt. instead of a duty of $1\frac{1}{2}$ per cent. on tariff value ; and to modify the schedule of Town Duties so that the maximum duty on grain of all sorts may stand at 6 annas per candy instead of 4 annas. On the same day on the motion of Dr. Blaney the Corporation sanctioned an advance of Rs. 3 lacs from Cash Balance for the commencement of work to be subsequently replaced from the loan.

On the 23rd December 1885 the Commissioner was authorized to enter into a contract with a Testing Officer in England for the testing of the iron works required for the Tansa Water Works and to engage the services of Mr. MacEwen for the construction of a road from the line of the G. I. P. Railway to the site of the Lake.

On the 13th January 1886 the Corporation accepted the tender of Messrs. T. Glover & Co., for the excavation of the foundation and the construction of the masonry dam at Tansa. The work commenced on the 18th of the same month, and made good progress before a month was over.

Meanwhile on the 12th February 1886, a reply was received to the communication made to Government by the Municipal Commissioner regarding the Tansa Water Works Loan. The Government of India, though fully recognising the great benefits to be anticipated from a scheme such as that proposed, regretted that the resources at their disposal were not sufficient to permit the grant of a loan, and suggested that the necessary funds might be borrowed under the provisions of the Local Authorities Loan Act. Consequently the Town Council requested the Finance Committee to report on the best means of raising the new loan. The Committee were of opinion:—

Provision of
Funds.

(1) That the Corporation should be advised to make a further representation to the Government of India, and if necessary, to the Secretary of State, with a view to induce the Government of India either to raise or guarantee the loan required. (2) That the attention of Government should be drawn to the fact that no answer has been given to the request of the Corporation regarding the extension of the period for the repayment of the remaining Vehar debt. (3) That Government should be asked to expedite the legislation necessary to give effect to the wishes of the Corporation as to raising additional revenue for meeting the required revenue. (4) That no time should be lost in obtaining the required sanction from Government to raise such portion of the whole loan (not exceeding 17 lacs) as is necessary to prosecute the work up to the monsoon of 1887.

This was adopted by the Town Council.

The Municipal Commissioner addressed Government accordingly and the requisite sanction was given to raise the loan under the Local Authorities Loan Act. A letter from Government was received later on informing the Corporation that the Governor-General in Council regretted that they did not feel justified in modifying the existing arrangements for the repayment of the loan for the Vehar Water Works.

On the 5th April 1886, the Corporation, believing it to be most important to the interest of the City, that the Government of India should lend its assistance in raising or guaranteeing the loan required for carrying out the Tansa scheme for increasing the water supply of the City, decided to make a fresh representation to the Government of India, and if necessary to make an application to the Secretary of State for India on behalf of the City and appointed a Committee to draw up a memorial. An able memorial was duly drawn up and was adopted by the Corporation on the 28th May 1886.

A reply to the memorial was received in October of the same year, to the effect that the Government of India could neither lend nor guarantee the loan required for the Tansa Water Works, but the Governor General in Council, however, was willing to extend the term for the repayment of the Vehar Water Works Loan. Thus ended the effort to get a loan from the Government of India.

The construction of the Tansa Dam was entrusted to Messrs. Glover & Co., as mentioned before. The Pipes required were supplied by Messrs. Macfarlane Strang & Co. There remained only one large contract to let for the completion of the Tansa project, namely the construction of the Tansa Duct from the Tansa Dam to Ghat Kooper, and this work consisted of (1) Tunnels and conduits (2) Pipe-track and pipe laying (3) Bassein Creek Bridges. Out of 3 tenders received for this work, that of Messrs. Walsh, Lovett, Mitchell & Co., being lowest was accepted on 28th July 1886, by the Town Council at a total cost of Rs. 42,00,000 together with a bonus of Rs. 8,000 for each month (but not exceeding Rs. 60,000) by which the date of actual completion of the 3 tunnels should precede the 1st January 1891. The only work which then remained to be provided for, was the continuation of the main from Kurla to such point or points as may be determined upon, for which purpose Rs. 3,00,000 were reserved.

For the next year and a half the Tansa Water Works made good progress. But in April 1888 a new and unforeseen difficulty arose. Out of the total loan of 123 lacs required for the Tansa project, the Commissioner had already raised, from time to time with the sanction of the Government of India, a loan of 47 lacs running for a period of 60 years. Early in the year 1888, the Commissioner was making preparation for raising a further loan of 25 lacs, when, on the 19th April of the same year, a letter was received from the Government of India refusing to sanction the issue of any more debentures for the term of 60 years, and directing that for the future no loan was to be raised by the Municipality for a longer period than 40 years. The Corporation were taken with surprise. But this was not all. The Government of India, in a later communication, intimated their sanction to raise the loan of 25 lacs, subject however to the condition that an annual amount be set aside by way of Sinking Fund *sufficient for the repayment of the present loan, together with the former loans of 17 and 30 lacs in 40 years from the 1st January 1893.*

Period of
loan.

Before the receipt of the last mentioned communication, the Corporation had appointed a Committee to draft a memorial to be submitted to Her Majesty's Secretary of

State in Council of India. A suitable memorial, showing the inconsistency and inexpediency of the procedure of the Government of India, with regard to the raising of the remaining portion of the Tansa Water Works Loan, was submitted to the Corporation on the 9th August 1888. With reference to the last communication from the Government of India a Postscriptum was added to the memorial protesting against any change being made in the term of the loan already issued. The memorial was then adopted and forwarded to the Government of India for submission to the Right Hon'ble Viscount Cross G. C. B. the then Secretary of State. A reply from the Government of India acknowledging the receipt of the memorial, intimated with reference to the Postscriptum, that the Government on reconsideration decided to withdraw the condition imposed as to the term of 40 years for the repayment of the 47 lacs loans. Early in the year 1889 a reply to the memorial was received. The Secretary of State in a despatch to H. E. the Governor General of India, declared that after careful consideration of the memorial he was unable to see any sufficient reason for a modification of the orders issued by the Government of India.

A final attempt to get the orders of the Government of India changed with regard to the term prescribed for the Tansa loans to run, was made on the 22nd December 1890, when on the motion of Dr. T. Blaney a deputation of the Corporation was appointed to wait on His Excellency the Viceroy for the purpose of pointing out the hardship inflicted on the Corporation by the resolution of the Government of India, which restricted the period of the currency of the Tansa Water Works Loan to 40 years, and of soliciting that an extension of the period to 100 or 80 years might be granted. The President was requested to communicate with the Private Secretary to His Excellency the Viceroy, requesting that the deputation may be received on any day in February next, which may be convenient to His Excellency. The Private Secretary informed the Corporation that the Viceroy was unwilling to receive the deputation as in the opinion of His Excellency, the deputation was not likely in the course of an interview to throw such additional light upon the question as would be commensurate with the expenditure of money, time and trouble which would be involved. Should the

Corporation be of opinion that they could support their contention by arguments not hitherto brought to the notice of the Government of India, it was open to them to make such fresh representations as they may consider pertinent, through the Bombay Government. The Corporation were further informed that the question had been fully and carefully considered and dealt with by the Government of India, in accordance with a policy deliberately adopted several years ago.

Thus a further representation to the Government of India on the subject was futile and the Bombay Municipality was left to struggle on with the Tansa project as best it could.

The total cost of the Tansa scheme was Rs. 1,50,00,000.

The Tansa Water Works was opened by Lord Lansdowne on the 31st March 1892.

The following inscription was put upon a memorial archway at Tansa :—

“ The Tansa Water Works, estimated to supply the City of Bombay with 21 millions of gallons of water per diem, through a duct 55 miles in length, from a lake 6 square miles in area, were first designed and reported on by Major Hector Tulloch, R.E., Executive Engineer of the Municipality in 1872.

“ They were undertaken in pursuance of a resolution moved by Dr. Thomas Blaney, and passed by the Corporation on the 10th August 1883 during the Commissionership of Mr. E. C. K. Ollivant (now K. C. I. E.) and Mr. W. J. B. Clerke, (now C. I. E.), being the Engineer.

“ They were completed at a cost of Rs. 1,50,00,000 during the time that Mr. H. A. Acworth, C. S., held the office of Commissioner.

“ And were opened by H. E. the Marquis of Lansdowne, G. C. M. G., G. M. S. I. E., G. M. I. E., Viceroy and Governor General of India, on 31st March 1892.

“ The Contractors were:—for the Dam Works, Messrs. T. Glover & Co., for the Duct line, Messrs. Walsh, Lovett, Mitchell & Co.”

In recognition of Mr. Clerke's services in bringing to a successful termination the Tansa Water Works the Corporation voted a sum of money for presentation to him of a suitable silver plate with an inscription thereon. He was also made a C. I. E. by Government. Mr. (now Sir Charles) Ollivant was Municipal Commissioner throughout the construction of this gigantic work immediately after the opening of which he was Knighted.

Cost of
Tansa Water
Works.

Opening of
the Tansa
Works.

Memorial
Archway at
Tansa.

Contractors
for the Tansa
Works.

Cost of Malabar Hill Reservoir.

The original cost of the construction of the Malabar Hill Reservoir was Rs. 7,09,661 while the estimated value at present is Rs. 10,84,863.

Cost of Bhandarwada Reservoir.

The present cost of the Bhandarwada Reservoir is estimated at Rs. 11,90,540.

Tulsi Forest.

A proposal to transfer the Tulsi Forest to Government was accepted by Government under their Resolution No. 4762, Revenue Department dated 1st June 1894.

Mr. Santo Crimp's Report on the water Supply. Commissioner's Report thereon.

Mr. Santo Crimp, submitted the following Report on the Water supply :—

Subject.

"In accordance with the request of the Corporation, I have the honour to report upon the question of the Water-Supply of the City and Island.

Inspections.

2. In order to make myself acquainted with the existing sources of supply, I have inspected all the lakes, a large proportion of the supply mains and conduits, the filter beds, and the settling basins and distributing reservoirs.

Plans.

3. I have also had placed at my disposal a large number of plans, reports, and other documents relating to the subject.

Projects.

4. I have also carefully considered the projects for the improvement of the supply now under the consideration of the Corporation.

Tansa especially good.

5. In order to elucidate the subject, it is necessary to describe as briefly as is consistent with accuracy, the existing works. I do not propose to offer any criticisms on projects that have been carried out in the past, when the information available was scanty and not perhaps always reliable. Indeed, I think, the great Tansa scheme is one that reflects the greatest credit upon all concerned in its inception and execution. It is a work of which the Bombay Municipality may be justly proud. At the same time in a year like the present, when, by reason of the failure of the monsoon, lakes Vehar and Tulsi are even now much depleted of water, and a water-famine—if not complete—at least partial must be faced during the coming year, one cannot but regretfully contemplate the fact that although the water in great abundance is stored in Tansa lake, it is beyond the reach of those requiring it in Bombay, except to the limited extent of some 21 million gallons daily.

Development of Tansa supply.

6. It will be inferred from these remarks that I consider the development of the Tansa supply a matter of pressing importance, and the future policy of the Corporation with regard to water-supply should be directed to that end. I am aware that works in connection with the up-keep and maintenance of the other sources of supply must be carried out from time to time, but in

laying out large new works in connection with the distribution of the water within the Island, the question should always be asked—does this proposal further the development of the Tansa supply?

7. It is desirable now to give a short description of the existing lakes and conduits and other works; the information is already in the possession of the Corporation, but it is difficult to present an intelligible report without a brief summary for reference.

Descriptive.

8. *Vehar Lake*.—Area of gathering ground, 2,500 acres; number of dams, 3; height of lowest draw-off on the T. H. D., 232.5; capacity available for supply when the lake is full, 8,800 million gallons, amount of water available now, 4,400 million gallons; mean rainfall during past thirty-eight years, 84.70 inches; mean evaporation, 36 $\frac{3}{4}$ inches; rainfall this year, 36.26 inches. This is the first of the lakes constructed for the supply of the City; it was finished in 1860. The water is conveyed to the City by means of cast-iron pipes of 24 inches and 32 inches in diameter laid generally above the level of the ground. The 24 inches pipe discharges directly into the distribution mains; the 32 inches into the Bhandarwada Reservoir.

Vehar Lake.

9. *Tulsi Lake*.—Area of gathering ground, 1,385 acres; number of dams, 2; height of lowest draw-off on the T. H. D., 400; capacity available for supply when the lake is full 2,306 million gallons; amount of water available now, 600 million gallons; mean rainfall during past eighteen years, 103.82 inches; mean evaporation, 36 $\frac{3}{4}$ inches; rainfall this year, 44.80 inches; this work was completed in 1879. The water is brought into the City by means of a cast-iron pipe, 24 inches in diameter, laid generally above the level of the ground, and discharging into the Malabar Hill Reservoir.

Tulsi Lake.

10. *Pawai Lake*.—Area of gathering ground, 1,235 acres; number of dams, 1; height of lowest draw-off on T. H. D., 165.0; capacity available for supply when the lake is full, 696 million gallons; amount of water available now, practically all; rainfall this year, 32.97 inches; evaporation probably the same as Vehar. This may be termed an emergency reservoir, having been constructed to mitigate an anticipated water-famine in 1891 before Tansa water was introduced. There is a pumping station in connection with this supply, as the lake is at too low a level to permit of the water gravitating into the City at a sufficient pressure to ensure a proper supply. I understand the water of this lake will shortly be used for industrial purposes. The lake is much too shallow to permit of good water for domestic purposes being obtained.

Pawai Lake.

11. *Tansa Lake*.—Area of gathering ground, 33,600 acres; number of dams, 1; height of lowest draw-off on the T. H. D., 380 feet; capacity available for supply when the lake is full, 18,600 million gallons; amount of water available now 14,940

Tansa Lake.

million gallons; mean rainfall during past seven years, 108·66 inches; (Vehar during same period 97·10 inches); rainfall this year, 40·07 inches; evaporation about 3 feet. The water is brought into the City by means of a masonry conduit as far as practicable. The syphons across the valleys are of cast-iron pipes, 48 inches in diameter, laid generally upon the surface of the ground.

Rainfall.

12. With regard to the rainfall, it ought to be noted for the guidance of those who may in the future design works in other places upon the Bombay basis, that the position of the gauge at Tansa is on the lowest part of the catchment area, namely at the dam; and, under these circumstances, it is highly probable that the average rainfall upon the gathering ground is greater than that indicated by the gauge, for, as a rule, rainfall increases with elevation. The Tulsi rain-gauge is at an elevation of 468 feet T. H. D., and is placed at a bungalow about the centre of the gathering ground, and possibly gives an average result for that catchment area. The effect of elevation is clearly shown when comparing these three cases:—Tulsi lake, elevation of gauge, 468 T. H. D.; average rainfall during past seven years, 117·05 inches. Tansa Lake, elevation of gauge, 435 T. H. D.; average rainfall during past seven years, 108·66 inches. Vehar Lake, average elevation of gauges, 350 T. H. D.; average rainfall during past seven years, 97·10 inches.

Temperature.

13. It is of interest to note that there is not a material rise of temperature in the water passing from lakes Vehar and Tulsi to the service reservoirs in the City. The maximum summer temperature of the lakes is about 88° and the rise of temperature is about one degree only.

Capacity of Mains.

14. With regard to the capacity of the various conduits and supply mains, that from Tulsi can convey more water than the lakes can furnish in a dry season such as that now being experienced; but the Tansa conduit is a composite construction, whilst the masonry portion can convey water to Ghat Cooper at the rate of 40 million gallons per day, the supply actually available is that which can pass through the cast-iron syphons above that place, and these cannot discharge more than 21½ million gallons per day. It should be noted that all cast-iron mains lose carrying capacity with age, in consequence of rust.

Quality of Water.

15. The quality of these various waters may next be touched upon as leading to the question of filtration, [but I do not propose to encroach upon the domain of the bacteriologist, I shall merely deal with the subject from the engineer's point of view, that is to say, as relates to the general design and working of the filters. But before discussing this subject, I have ascertained that Tansa water is of such excellent quality as to need no filtration; that Vehar water comes next in quality, and Tulsi last, but that these waters need filtration must be obvious to any one who inspects the lakes, the water

containing very large quantities of suspended matter of vegetable origin. Further, with regard to Vehar, I was much concerned on observing the immense amount of vegetation growing in the water at the northern portion of the lake where the water is comparatively shallow. I fear that unless the removal of this vegetation is at once undertaken, the conditions of 1865 will be reproduced, when in May the water was said to be "thick with vegetable matter and offensive to taste and smell"—(Blaney). The same authority stated that the death-rate during that month rose to twice the average. Three remedies were proposed by Dr. Leith's Committee, formed to deal with this matter:—

- (a) To remove as effectually as possible the existing rank vegetation. The theory of this process is that a new and active growth will spring up, during the rapid spread of which organized oxygen will be freely liberated, with the power of oxidising or fixing any existing impure or noxious matter.
- (b) To provide extensions of the sand-bed filter for use in dry months.
- (c) To introduce some weed of unusually rapid growth to act as ordinary new vegetation, &c.

Remedies.

I venture to think the last remedy suggested would be worse than the disease.

16. I observed, when on the Tansa Lake, that there were quantities of suspended particles of vegetable origin in the water, and it is a matter that should receive the careful attention of the Corporation; for, if this matter is increasing in quantity, it may well be that the time will arrive when it will become necessary to filter the water.

Vegetable
Matter in
Tansa

17. This last consideration should be one of the factors in determining the volumes to be discharged at the service reservoirs, in developing the Tansa supply, because the areas available at the proper elevations in Bombay for the construction of filter-beds is very limited.

18. With regard to the rate at which water should be filtered, this is a matter purely of experience. As the suspended matters accumulate upon the surface of the filters, the rate falls off, until finally the surface must be skimmed, and the filters are then re-started. Obviously, therefore, the amount that can be effectively filtered by any given filter depends upon the amount of suspended matter to be removed. It is of little practical use to compare the great London filters with those of Bombay, because much of the London supply is derived from rivers which are frequently turbid. I am informed that at Bombay, the experience already gained suggests a limit of about 500 gallons per square yard per day, allowing for filters

Filtration.

out of work, and that limit is quite consistent with what one would expect under the circumstances and should be adopted tentatively in the design of new works. The Berlin supply is derived from lake Muggel, it is filtered, and the maximum rate is fixed at 440 gallons per yard per day.

Settling
Tanks.

19. Before the water received at Malabar Hill is filtered, it is passed through a settling tank, which permits of some of the suspended matters to settle, thus relieving the filters of part of the work, but settling tanks are not to be commended, because the organic matters thus intercepted become decomposed and might deteriorate the quality of the water. The settled water is then in part passed through the filters, and is received in distributing reservoirs and passes finally into the supply mains.

Tansa supply direct.

20. The Tansa water, however, is not discharged into the reservoirs, but the supply main is connected directly with the distributing mains.

Distributing
Mains.

21. The distributing mains are laid in accordance with the usual practice, but are naturally not as well proportioned as would be the case if the City had been supplied from the great main source in the first instance. This circumstance, however, is not peculiar to Bombay. It is possibly true of every great progressive city in the world; my firm have certainly had to advise on many similar cases.

House Sup-
plies.

22. The supply to the houses is in some cases laid on to every floor; in others a stand pipe with one or more taps is placed at a convenient point in the street from which groups of houses are supplied. There are also meters in many cases, about $11\frac{1}{2}$ per cent. of the water being thus measured, the revenue from which amounts to upwards of 50 per cent. of the whole.

Quality ne-
cessary.

23. We may next consider the question of the amount of water necessary for a city like Bombay. We have, in addition, to the demand of the people themselves, other requirements to meet. These are mainly in connection with manufactories and trades; bullocks, horses, and other animals; and general sanitary purposes such as road-watering, sewer-flushing, &c. A comparatively small quantity is also supplied to the shipping using the Port. From meter observations in Bombay, taken during recent years, we know that the consumption by human beings varies from 8 gallons to 15 gallons per head per day, and averages 12 gallons. Therefore, the present population of 8,21,000 require about 10 million gallons per day. We may add for the other requirements mentioned $4\frac{1}{2}$ million gallons in round figures, or a total of $14\frac{1}{2}$ million gallons. But there must be some waste even in a perfect system, and more water is used in the hot season than in the cold. Therefore we may adopt 20 million gallons per day as a safe basis for Bombay for the hot weather requirements of the present population.

24. I have before me details relating to other Indian Towns namely :—

Other Indian Towns.

Average consumption in gallons per head per day.

Madras	...	...	11-80	Portion of town badly supplied.
Poona Cantonment			18-00	Warm weather.
"	"	...	11-00	Cold weather.
Nagpur	...	...	7-50	
Trichinopoly	...	...	8-00	
Tanjore	...	...	7-50	
Madura	...	...	7-15	

Obviously each town takes what it wants for its own particular requirements. Moreover, with regard to Madras the supply is admittedly defective; we do not know that the other towns are perfectly supplied.

The average amount of water delivered in the Island is, however, no less than 35 million gallons daily, of which I am of opinion 15 million gallons are preventable waste, leading to a loss in many directions; water is lost, pressure is lost, there is a great deal more sewage to be pumped, and generally the works are lessened in efficiency. It is quite consistent with the facts of the case to say that practically the whole of the water supplied by Tulse and by Vehar is wasted. My frequent inspections of the city lead me to believe that nearly all this is due to leaky taps and services and to the habit many persons have of leaving the taps open. Of course, if they see a leaky tap wasting water, they will not trouble to close a sound one. In the meantime they are being educated to waste, rather than to conserve the water. I think one step in the right direction would be for the Corporation to insist upon all taps being of an approved pattern of the best quality.

Waste;

25. Now I have shown that the reserves in the various lakes amount to 19,940 million gallons at the present time. There is, therefore, sufficient for 997 days' supply if the water could be properly distributed, and fairly used, and waste prevented.

Reserves.

26. Much however is wasted, and the remainder is not properly distributed, because the Tansa water and part of Vehar water is not discharged into a distribution reservoir, but directly into the distributing mains.

27. With regard to the necessity for discharging the water from the impounding reservoirs into "balancing" or distributing reservoirs, the full discharging capacity of a supply main can be obtained in that way only. The draught upon the service mains is very variable throughout the daily period of 24 hours, and is, during the period of maximum demand, rather more than twice the average. I have before me a diagram showing the hourly draught upon an ordinary constant supply service main in Bombay, which shows that from noon to 4 p. m., the supply is about the mean, there is then a steady increase in the demand until 6-30 p. m., when it begins to decline, reaching the average

Necessity
for service re-
servoirs.

at 7-30 p. m. and steadily declining until the minimum which is less than one-tenth of the maximum is reached at 2 a. m. There is then little variation until 4-30 a.m. when there is a sharp rise, the average rate being reached at 5-30 a. m. and the maximum at 8-30 a. m., when, as before stated, the demand is upwards of double the mean. This continues for about two hours, when there is a steady decline.

Very large
mains wanted
if service re-
servoirs not
provided.

28. It is obvious, therefore, that if the supply is to be maintained at an effective pressure, without the aid of balancing reservoirs, this desirable object can only be accomplished by means of supply mains of twice the size of those necessary when balancing reservoirs are employed, and then during many hours of the night these mains would be for all practicable purposes dead. The system is opposed to all modern practice, and cannot be defended. Let us consider this from another point of view: the Tansa main can bring into the City 21½ million gallons per 24 hours, but the demand upon this main during the hours of maximum supply is double, or 43 million gallons.

The main cannot furnish this volume, and as a result the water is drawn-off during the periods of maximum demand at the lower levels only, leaving the upper floors of the higher buildings depleted of water. There is practically no control, and even the limited control obtainable by means of valves upon the mains is fraught with danger, because of the shock resulting from arresting the momentum of the water in the large supply mains, when the valves are shut, which sooner or later leads to bursts, with their attendant risks and inconveniences. That most desirable want, constant supply at high pressure, is impossible under such circumstances.

Constant
supply.

29. The advantages of a constant supply are now so well understood that I purpose to touch upon the subject very shortly. In the first place, the advantages from the sanitary point of view outweigh all others, although there are some which are also of great importance.

30. I have noticed repeatedly since I have been in Bombay that upon opening the tap in the bath-room used by me, that not only has there been no water in the service pipe, but that there is a partial vacuum, the suction being frequently very strong sufficiently so indeed, to empty a tumbler of water. Now, it is common knowledge that in a large system of mains and service pipes, undergoing a steady process of deterioration, from the day they are laid, that leaks are of common occurrence, and must, of necessity, for ever take place.

Risk of pol-
lution.

31. Many of the distributing mains and services are laid in ground polluted with sewage, "laid on" to the soil as described more particularly in my report on "Sub-soil water," and there is a grave risk of drawing some of this polluted water into the water-supply under the circumstances referred to.

32. There are further risks of pollution of the general supply due to taps being left open in insanitary dwellings, and even of the water drawn from the taps and stored in utensils of various kinds when there is a short supply; upon sanitary grounds, therefore, an intermittent supply cannot be too strongly condemned.

33. Upon what may be termed mechanical grounds, the system of intermittent supply is bad, because of the risk of the great supply mains being damaged by the shock caused by shutting the valves. As you are aware more than one accident of the kind has occurred in Bombay quite recently, with grave consequences to the consumers, who were for days in a serious plight. A great fire, under these circumstances, would be appalling in its results.

Damage to
mains.

34. Finally, although it may at first appear to be paradoxical, there may be less waste with a constant supply at good pressure than with an intermittent supply, because an efficient system of waste prevention is the natural complement of the constant supply system.

Less waste
in good constant
supply.

35. When the water is only supplied at irregular intervals as is the case in Bombay, taps are frequently left open upon the chance of some water being obtained, and in that way much water is undoubtedly wasted. With regard to waste prevention generally I feel I can add nothing to the extremely able reports of Mr. S. Tomlinson. In these reports, the latest English practice is fully described, and examples of the application of the system to Bombay are given. The reports shew, conclusively, that a constant supply, under proper supervision, and with an adequate staff for the detection and prevention of waste, is conducive to great economy in the consumption of water.

Waste,

36. I could give examples in the practice of my own firm and of other Engineers, but I feel that one or two for reference is sufficient. My firm, for a great many years, have been Engineers for the City of Bristol Water-supply, the population is one-half of that of Bombay, the water-supply for all purposes does not exceed 22 gallons per head per day: a result entirely due to constant supply with efficient waste prevention. Bristol, too, is drained, and fully watercloseted.

Bristol

37. The case of Leicester—a Midland town, with a population of 203,000 in 1894, is interesting, because there, according to Mr. Griffith, the Engineer, in charge, the consumption was reduced to 17·56 gallons per head per day, by the simple expedient of dividing the water area into 331 districts, each having a valve for isolating it from the main supply. These valves are examined by night inspectors by means of a stethoscope, and if leakage is found, it is reported to a day inspector, who follows the matter up. No meters are used upon the mains for detecting waste in this case. The supply is constant. At Shoreditch, London, with a population of 87,000 the consumption of water was 36·8 gallons per head per day to 14·1, by means of the waste meter system.

Leicester.

London.

Chatham.

38. Another supply under the charge of my own firm is that of Chatham and the surrounding districts. Here the supply for all purposes is less than 20 gallons per head per day. In all these cases the results are unquestionably due to a perfect system of waste prevention of the kind fully detailed in the report.

House meters.

39. With regard to the house-hold meter system, I can add nothing to the voluminous reports upon this question, which have already been presented to the Corporation. The subject has been exhaustively dealt with by Mr. Tomlinson in his report of April 1892 and by the Executive Engineer in his masterly analysis of December 1893. I will merely say I am of opinion that if the development of the supply is proceeded with upon the sound grounds of a constant supply, with an adequate staff for the detection and suppression of waste, house-hold meters will not be necessary. The punishment of offenders is, I admit, difficult, but I cannot help thinking some method might be found to meet the case.

House meters good for waste.

40. At the same time it cannot be denied that the house-hold meter system is the most effective method of checking waste known. The subject was fully discussed at the Institution of Civil Engineer in 1891; the paper with the discussion may be found in Volume CVII. of the Proceedings.

Recapitulation.

41. We may now recapitulate the main features of the existing supply under the following heads:—

- (a) Storage.
- (b) Delivery.
- (c) Filtration.
- (d) Distribution.

42. (a) The present storage amounts to 29,706 millions gallons when the lakes are full, omitting Pawai.

(b) The delivery mains can bring into the City 36 million gallons per day.

(c) The filters can effectually filter $11\frac{1}{2}$ million gallons per day.

(d) The distribution is faulty, in as much as the Tansa supply and part of Vehar supply is uncontrolled, except by means of valves upon the supply mains.

Storage.

43. We may next consider such of deficiencies of the present system as require to be urgently dealt with. Observing the same order as was adopted in the recapitulation, we find that as regards storage the impounding reservoirs will suffice for many years to come.

44. When the time for extensions arrives, the Tansa dam can be raised, without endangering its safety, 15 feet, when the volume of stored water would be increased by at least 12,400 million gallons.

45. With regard to the filters, the area provided at Bhandarwada is ample in extent, but at Malabar Hill there is a deficiency of about 4,000 square yards. I am of opinion that this should be immediately remedied.

Filters.

46. With regard to the supply mains I am informed that the present mains are in good order with the exception of the Vehar 32-inch, which is becoming weak from corrosion, and has already burst in several places.

Supply
mains.

47. The proposal to convey Tansa water direct into the Malabar Hill and Bhandarwada Reservoirs is not only sound in principle, but is absolutely necessary for the proper development of the Tansa Supply, followed, as it should be, with the construction of a new outlet from the Malabar Hill Reservoirs of adequate capacity, to join the existing distributing mains at Chowpati. I think these proposals should be carried out forthwith. I also think the high level areas supplied from Malabar Hill should be provided with a tank to receive and store the water pumped by the turbine.

Develop-
ment of Tan-
sa.

48. The proposal to lay a new main from Vehar is also sound, because this really means a duplication of the Tansa main for several miles from Bhandup to Koorla, and forms part of the general idea for the development of the supply, which should be followed in the future. I understand the Railway Company will divert that part of the present main which is laid within their property, which would be joined with the proposed new Vehar main. I approve of this proposal.

New Vehar
Main.

49. Lastly, as regards distribution, this will unquestionably be improved and placed upon a more satisfactory basis when the proposals enumerated have been carried out, so far as the supply to the southern part of the Island is concerned; but I do not approve of the present method of drawing from the supply mains for the requirements of the central and northern part of the Island.

Distribu-
tion.

50. I am of opinion that the development of the supply of that part of the area should proceed upon a proper system of distribution from a balancing reservoir. A good site for this may be found upon the hills on the east of Old Government House, Parel, and the proper course at first would be to cause the present 24-inch main from the Vehar lake to discharge filtered water into this reservoir from the existing filters at Vehar.

Parel Ser-
vice Reser-
voir.

51. Eventually this suggested reservoir would form the natural termination of the duplicated Tansa main.

52. There must be an obvious loss of economy in conveying all the water to the south of the Island, and then back again, as would be the case if all the supply mains were made to discharge into the present reservoirs.

53. In conclusion, I may say that, so far I feel I have but re-iterated much that has been already placed before the Corporation, in the voluminous and excellent reports by their Executive Engineers, by Mr. Tomlinson, Mr. Fairlie Bruce, and others.

Definite
Plan for fu-
ture Develop-
ments.

54. What I desire to impress upon the Corporation is the necessity for forming a definite and comprehensive policy for the future development of the water-supply. It is not conducive either to efficiency or economy to relieve the necessities of parts of the City as they arise, in a piece-meal and inharmonious manner. Changes take place both in the Corporation and its personnel, but these changes should not interfere with the general development of the scheme in the direction of some settled and definite plan. I do not, for a moment, suggest that a large expenditure should be at once incurred in providing for the requirements of the population, say 50 years hence, but Bombay must and will grow, and more water will be yearly demanded, but the extensions should form part of a carefully considered scheme, so that the final result may be attained with the maximum of efficiency, and at the same time at the least cost to the community.

General Idea.

55. I am of opinion that future developments should proceed upon the following general lines :—

(a) The pernicious system of drawing from the supply mains should be suppressed, all such mains should deliver directly into balancing reservoirs, from which the water should be supplied at constant pressure.

(b) The supply of the northern part of the Island should not be taken to the south to Malabar and Bhandarwada, and back again, but this part of the Island should take its own supply from reservoirs and filters to be constructed on Parel Hill, which should also receive the water from the Tansa main when it is finally duplicated, and in the meantime from the 24-inch Vehar main, with a branch from the proposed new main.

Steel Mains.

56. Finally, with regard to the use of steel mains in lieu of cast-iron, the position is much the same as when reported upon by Mr. Mansergh in 1892. The gist of that report lies in these sentences—"There is no experience to justify the belief that any precaution in the way of coating would bring steel up to the same platform as cast-iron." But, * * * "under these circumstances, I believe the steel main may be preserved practically undeteriorated for a long term of years at slight cost, and as the Engineers have shewn by their estimates a substantial saving in cost by the use of steel * * * I have no hesitation in confirming their recommendations."

57. The "special circumstances" referred to were the facts that the proposed main was to be laid above the ground, and were much cheaper.

Birmingham.

58. Now I had an opportunity in March last of visiting the great works being constructed by Mr. Mansergh for the supply of Birmingham, and found cast-iron mains were being used, except in some special cases where the pressure will be exceptionally great when the works are brought into operation.

London.

59. But great as these works are, they are small compared with the great London works, which now supply upwards of five million persons. The population supplied by these works is increasing by

more than half a million persons each ten years, and the consumption of mains in extensions is enormous. As these great works are in the hands of private Companies, there is not much information published with regard to them. It is not in the interests of the Companies to supply information, which obviously might be used to their disadvantage in the event of their undertakings being purchased compulsorily.

60. But my firm have designed and constructed some of the works for two of the Companies, which are not among the least in magnitude and importance. Apart from that, I know generally what is being done, and I can say that steel is used only in exceptional cases.

61. Our own practice in many other towns is consistent with the general statement made above, and I think I may say that in the United Kingdom, generally, the practice of Engineers is in accordance with this view. But there are "special circumstances" in Bombay; so far as the mains aboveground are concerned they are accessible for protection, and I have no hesitation in advocating the use of steel in lieu of cast-iron; but in the case of those to be laid beneath the surface, I think some steps should be taken to ascertain, whether in the case of those to be laid in ground which not long since was covered by the sea, there is salt in the subsoil in sufficient quantity to lead to a rapid destruction of the mains. If there is, I venture to think, it would be safer to lay mains of cast-iron.

In conclusion, I have to thank the Executive Engineer, Mr. Murzban, and Mr. Bruce, for their assistance, and to say that if I have failed to deal adequately with any part of the subject, I shall be happy to elucidate the matter in a subsequent report."

Resolution of the Corporation, No. 10986, dated the 18th January 1900 :

"That, with reference to his letter No. 23696, dated the 12th December 1899, the Commissioner be requested to favour the Corporation with his remarks and suggestions on Mr. W. Santo Crimp's report on the water-supply and its distribution, together with estimates of the cost of such proposals as he would recommend to be taken in hand at once."

Resolution of the Corporation, No. 10988, dated the 18th January 1900 :—

"That the Resolution of the Standing Committee, No. 6311, dated the 4th October 1899, recommending proposals for meeting the cost of mains sanctioned by the Corporation under Resolution No. 4385, dated the 14th August 1899, be forwarded to the Commissioner, with a request that he will consider the matter in making any proposals on Mr. W. Santo Crimp's report on the water-supply and its distribution."

Resolution of the Corporation, No. 10989, dated the 18th January 1900 :—

“ That paras. 1, 2 and 8 of the Resolution of the Standing Committee, No 7768, dated the 8th November. 1899, regarding the laying of certain mains for ensuring a better supply of water to the public, be forwarded to the Commissioner with a request that he will consider the recommendations made by the Standing Committee in formulating his proposal on Mr. W. Santo Crimp's report on the water-supply and its distribution.

* * * *

Resolution of the Corporation, No. 12837, dated the 19th February 1900 :—

“ That the *Ad-interim* Report of the Committee of the Corporation on the question of adopting the meter system for the distribution of water, be forwarded to the Commissioner, with reference to Corporation Resolution No. 10986, dated the 18th January 1900, with a request that he will consider the remarks and recommendation of the Committee in submitting his observations and suggestions on Mr. W. Santo Crimp's report on the water-supply and its distribution and place definite proposals before the Corporation.”

No. 11413 OF 1900-1901.

BOMBAY, 2nd August 1900.

TO THE MUNICIPAL SECRETARY.

SIR,—As requested by the Corporation in their Resolution No. 10986 of the 18th January last, I have the honour to submit my remarks on Mr. Santo Crimp's report on the Water-Supply of Bombay, and on the other subjects relating thereto which were also referred to me by the Corporation Resolution Nos. 10988, 10989 and 12837, dated the 18th January, 18th January and 19th February 1900 respectively.

2. It is no doubt a matter of congratulation that the Corporation should learn from Mr. Crimp that he has, with one or two minor exceptions, no new facts to put before them, and that in the able reports which have from time to time, and more especially during the last 15 years, been submitted to them from various Executive and Water Engineers, there will be found sufficient material to enable them to come to what will, I hope, be a definite and final conclusion on the important matters which have so long been awaiting settlement. Mr. Crimp has, as was to be expected, dealt with the subject on general lines and avoiding details which might only tend to confuse, has enunciated the broad principles which should, in his opinion, guide the future policy of the Corporation and to which all subsidiary schemes should be made to conform.

3. Before I proceed to discuss the more important general questions which have to be considered, it is desirable to state

that the vegetable matter which Mr. Crimp observed in the shallow water at the northern part of the Vehar Lake has been removed, and that advantage has been taken of the fall in the Tansa Lake to cut down as many as possible of the standing trees. The suspended particles of vegetable origin in the latter lake referred to in para. 16 of the report, appear to have been algæa matter, as there is no other vegetable growth in the lake, and recent chemical and bacteriological examinations of the water by Dr. Cayley have shown that during the hot weather it steadily improved in quality. It is impracticable to deal with matter of this kind in any other way than by filtration, and there is at present no reason to anticipate that the growth of algæ will render this course necessary.

4. Mr. Crimp lays down in the commencement of his report a proposition which no one will dispute, *viz.*, that the future policy of the Corporation with regard to the water supply should be the development of the Tansa system, and he remarks that it is a matter of regret that only some 21 million gallons can be drawn from that lake daily. The Tansa project has always been looked on as a final one as far as the present and future requirements of the City are concerned, but it was unnecessary and would, from a financial point of view, have been both difficult and extravagant to do more than provide for the reasonable wants of the City for a period of some 30 years. The wisdom of providing ample storage accommodation once for all was undoubted, and the construction of the masonry conduit to carry an increased supply in future was economical, but the duplication of the syphons so as to admit of a greater draw off was postponed until such time as, allowing for a proper use of the water, an increased supply might justly be asked for, and from Mr. Crimp's estimate of the quantity of water deliberately wasted, I assume that he cannot be of opinion that the time for a further expenditure of some 50 or 60 lakhs has yet come. The works which he indicates as being at present desirable in furtherance of the general scheme (excluding works for purposes of distribution) are a substitution of a larger main for the Vehar 32-inch from Vehar to Coorla, and the provision of a service reservoir in Parel or Chinchpokli Hill for the storage of water for the northern portions of the City. I shall deal more fully with the first of these items in my remarks on the report of the Water Mains Committee, and it is only necessary to explain here the connection of this larger main (48 inches recommended by the Committee) with the Tansa system by saying that it will at once convert Vehar into a *safety* reservoir in case of any breach in the Tansa line north of Coorla, and will eventually, when it is necessary to draw in increased supply from Tansa, form part of the new line, the additional water being poured into the Vehar Lake. The second item I discussed with Mr. Crimp, and he finally came to the conclusion that the new reservoir is not at present

necessary, and that all that need be done is to keep the project in view and perhaps purchase the land required. I am not prepared to recommend any expenditure in this direction at the present juncture, since until some thing more definite is known as to the probable rate of development of the northern suburbs and the consequent prospective increase of population to be provided for, no scheme with any element of accuracy could be formulated, and it must always be remembered that at present and probably for a long time to come, our straitened resources will require the limitation of capital expenditure to such work as are of an essentially necessary character. The operations of the Improvement Trust in the areas notified under their schemes, Nos. V and VI will be our best guide in this particular matter, and it is desirable to wait until further progress is made before we consider what steps need be taken. The Vehar 24-inch main which can supply 3 million gallons a day is sufficient for all purposes of the present and the immediate future.

5. Taking now the heads under which the report is summed up, we find that the storage capacity of the lakes is sufficient for many years to come, and that the only further work that can be foreseen, as ever likely to be required, is the raising of the Tansa dam which was in the first instance so designed and constructed as to admit of this being done. The supply mains however can deliver under the most favourable conditions no more than 36 millions gallons daily, viz.:— $21\frac{1}{2}$ from Tansa, $4\frac{1}{2}$ from Tulsi and 10 from Vehar, and in years of scanty rainfall such as that of 1899, the supply from Tulsi is always liable to be reduced by about one-half. The average daily supply for the last year I take to be about $34\frac{1}{4}$ million gallons and the possibility for this partial failure must be always borne in mind. In respect of these two matters, storage and delivery, Mr. Crimp has no recommendations to make. As regards filtration it has to be noted that the existing filter beds can deal with about $10\frac{3}{4}$ million gallons daily as shown below:—

Bhandarwada	...	...	...	...	7
Malabar Hill	...	...	...	...	$2\frac{1}{4}$
Vehar	...	...	...	...	$1\frac{1}{2}$
					<hr/>
Total					$10\frac{3}{4}$
					<hr/>

It will thus be seen that all the water delivered by the Vehar 32-inch main at Bhandarwada, about 50 per cent. of the Tulsi water when a full supply is being drawn, and all the water drawn through the Vehar 24-inch main in the cold weather when the mill tanks are full, are filtered. When the full supply is being drawn through the Vehar 24-inch main none of it can be filtered, and in the event of considerable increase in the population of the northern wards, the extension of the filter beds at

Vehar will be a necessity. The Tansa water is all unfiltered, and the only possible site for filter beds is a few miles on this side of the lake, where land has been reserved. It is no doubt a desideratum that all water for drinking purposes should be filtered as experience and experiments have shown, that the risk of water borne diseases is thereby practically eliminated. The careful analyses made during the last year have, however, shown that the Tansa water, under what may be taken as almost the worst possible conditions, is still a good drinking water, and there is nothing in the present circumstances of the case to justify an expenditure of some 9 or 10 lakhs of rupees for the extra security of filtration. The lake is not ordinarily exposed to the danger of contamination, and with a systematic examination such as is being conducted at present, we should at the worst have to face the cutting off of the supply for a few days. Mr. Crimp's only recommendation in connection with this subject is that the filtering area at Malabar Hill should be extended so as to admit of all the Tulsi water being dealt with. This subject has been several times discussed by the Corporation and more recently by the Standing Committee, and the difficulty in the way of a settlement has been the uncertainty as to the maximum possible rate of filtration of which, of course, the accommodation to be provided depends. The Corporation decided some time ago that systematic experiments should be carried out, but it has not been possible as yet to do so, first on account of all the filters not being in working order, and secondly because the draw off from Tulsi having been reduced this year the necessary pressure could not have been maintained. It is probable that 600 gallons per square yard may be a sufficiently accurate rate for all practical purposes, but I have been and am reluctant to advise the Corporation to enter on this expenditure, inasmuch as if efficient means of stopping or reducing waste can be devised, we could very well afford for some time to come do without that part of the Tulsi water for which the extra filtering area is now proposed. If, however, waste is to be left unchecked, there can be no doubt as to the necessity for stopping the supply of unfiltered Tulsi water which is not potable at the best of times.

6. I come now to the last subject which Mr. Crimp discusses, *viz.*, the distribution of water supply, and this must be taken to include all the works (except filtration) which have to be arranged and provided for to secure that the best possible use is made of the water delivered by the supply mains. The object to be attained and that towards which the Tansa scheme was directed, is the provision of a constant supply at full pressure in every part of the City. The evils of an intermittent supply, such as existed in the City before the introduction of Tansa water, and such as has now unfortunately again been brought into existence, have been so frequently explained, that I need do no more than classify them as (1) risk of polluted matter being drawn into mains on the establishment of a negative pressure, (2)

danger of bursts owing to the constant manipulation of sluices, (3) impossibility of maintaining sufficient pressure for fire extinguishing purposes and (4) the risk of water collected and stored during the hours of supply becoming affected on account of the insanitary conditions of most of the houses in the native town. The extreme inconvenience and hardship likely to be caused by the second of these risks under existing conditions was fully exemplified last October, when a combination of accidents on the 32-inch main in Grant Road necessitated not only the shutting off of Tansa water from the southern part of the City, but also prevented water from Bhandarwada being distributed through the ordinary channels to a great part of the native town, and it cannot be too strongly asserted that so long as some 30 sluices and valves have to be opened and shut, in order that every part of the town may have water, we must always be prepared for accidents caused by the carelessness of workmen, and the consequent excessive strain put on some part of the distribution system. The remedies which Mr. Crimp proposes, and which have for years past been urged by successive Commissioners and Engineers, are the discontinuance of direct supplies from the delivery mains and the prevention of waste. The relative importance of these two measures has, in my opinion, been incorrectly estimated in some of the former reports to the Corporation; the latter is a much more urgent need than the former, inasmuch as if waste be effectively checked, the abundance of the Bombay water supply would more than make up for limited storage accommodation, so far as the ordinary daily supply is concerned, while no amount of storage within the limits of the possible delivery of the present supply mains could do more than slightly reduce the deficiencies caused by waste. In connection with the first of these measures, it should be mentioned that service reservoirs in addition to admitting of some regulation of pressures as explained in paras. 27 and 28 of Mr. Crimp's report, serve also the purpose of storing surplus water for use in case of fires or breaks on the supply lines, and it is of course very desirable to have them for all these purposes. At present practically all the Tulsi water is taken direct to Malabar Hill, and the water brought by the 32-inch Vehar main to Bhandarwada, while the whole of the Tansa water is drawn off directly into the distributing mains. In placing the Tansa scheme before the Corporation, Sir Charles Ollivant specially withheld the subject of a service reservoir for future consideration, and it was settled that financial consideration rendered it impossible to undertake the work as part of the Tansa project. The matter however was not lost sight of, and in 1887 Sir Charles Ollivant and Messrs. Clerke and Tomlinson submitted a joint report to the effect that the only suitable site within the City for the reception of the bulk of the Tansa water was at Malabar Hill. This view has, I think, been generally accepted,

but up to the present time no steps have been taken to give effect to it. Last year, however, the partial failure of the Tansa supply and the consequent complaints from the Fort and Colaba brought the project, which had been subordinated by the water Mains Committee to that of taking a smaller quantity of Tansa water to Bhandarwada into prominence again, and the Standing Committee recommended that immediate measures should be taken for the delivery of Tansa water into the Malabar Hill as well as the Bhandarwada Reservoir. Mr. Crimp has strongly supported this recommendation, and no objection can be urged against its ultimate adoption; from a scientific point of view it is a necessary part of the distribution system, but the necessity is not so pressing now as it will be later when the legitimate demand of an increased population will reduce the margin available for waste, and when it will be essential to adopt every device that makes for economy in the use of water. I should be glad if these works and the extension of the accommodation at Malabar Hill for the storage of 10 million gallons more could be undertaken at once; I shall give details of the cost later on, and it will be for the Corporation then to consider whether they are in a position to undertake them. The point however, which I wish to press most strongly now is that the rectification of this one defect will not by itself remove the present causes of complaint. The danger from bursts will be reduced and it will be possible to regulate pressure better than now and to improve the distribution at the expense of districts that are most favourably situated at the present time for drawing off the maximum quantity from the Tansa main. That however is the most that can be hoped for, and I am afraid that the result, after an expenditure of many lakhs of rupees, will fall far short of what is really required. We have seen that the introduction of an extra supply of $21\frac{1}{2}$ millions has had no more than a temporary effect; within seven years we had to revert to the former unsatisfactory system of intermittent supply, and I can see no reason to hope that the delivery of the Tansa water at Malabar Hill and Bhandarwada will of itself assist us very far towards the solution of the problem of how to maintain a constant supply at full pressure. I am for the same reasons opposed to any attempt being made to improve the system of distribution mains before waste is checked: to do so would merely bring on the Corporation clamorous demands for an increased supply from Tansa, which cannot be regarded as financially possible for many years to come.

7. It will be gathered from the preceding para. that in my opinion the development of the Tansa system in the direction of delivery at the existing reservoirs, and the improvement of the general system of distribution in the City by the laying of additional distributing supply mains or the substitution of larger for smaller mains are of much less importance than the

prevention of waste. I cannot help coming to the conclusion that any attempt to ameliorate the present conditions by measures which are not directed towards economy in the use of water is doomed to failure, and that the only result will be, after a transitory improvement, more disappointment and popular clamour than before. I have heard it frequently remarked at meetings of the Standing Committee and Corporation that when Tansa water was introduced a promise was given that there would never be any more scarcity of water. I have not succeeded in tracing this promise to any official source, and I do not think any one can have seriously contemplated that with unlimited waste any given quantity would suffice. I find on the contrary that Mr. Tomlinson in 1887 and Mr. Walton again in 1891 pointed out that at the existing rate of increase of consumption (including waste) and given a constant supply, the Tansa supply, would all be absorbed by about 1897. We know now that as a matter of fact this estimate was much too sanguine, and that in the hot weather of 1898 the full static head at Ghatkoper was never approached, a fact which as Mr. Tomlinson pointed out showed conclusively that the full supply could have been absorbed in the City at less than full pressure. This of course meant that a constant supply could not be maintained in localities or houses where high pressure was required, owing to the latter being exhausted at lower points of delivery. In 1897 the late Mr. Newton showed that at the time of maximum draw off the loss of head in the Tansa main varied between 70 and 100 feet, and it is hardly necessary to say that since then there has been no improvement. Mr. Tomlinson in 1898, on consideration of the observation already referred to and foreseeing the future accentuation of the evil, adopted the natural course of proposing that the most stringent measures should be taken to economise the use of water, and I would commend his very able report, No. W. 2712 of the 28th April 1898, to those who care to study the subject. The Corporation decided that any action at that time would be premature, but the experience of later years will probably induce them to come to a different decision now, and it should be borne in mind that in the intervening period the number of connections has increased by about 14 per cent. and the consequent legitimate demand in the same proportion.

8. It will probably not be seriously questioned that the defects of the present system, including all the disadvantages of an intermittent supply, of over-working the pumps at Love Grove, of the restriction of the water carriage system, and of water-logging the soil are directly due to excessive waste. There is no doubt that ordinarily 35 or 36 million gallons of water are delivered in the City every day; this was at one time disputed though the method of measurement was fully explained by the Water Engineer, but Mr. Crimp's pronouncement on the subject should suffice to set all doubts at rest. It will also be safe to accept Mr. Crimp's estimate of the actual daily requirements

of the City for all purposes (*viz.* 20 million gallons) as it agrees fairly closely with those of the Engineers of considerable local experience. The total daily waste may therefore be put down at 15 or 16 million gallons—43 or 44 per cent. of the total supply—a quantity which, if saved, would secure the maintenance of a constant supply at full pressure for many years to come without additional delivery mains, and would also admit of a reasonable increase in revenue by sales for purposes of trade. Mr. Snow's proposals as to the method of securing these valuable results were before a Committee of the Corporation for some 18 months, and the only result arrived at was a recommendation that all premises with gardens in the City should be charged by measurement. Now, considering that this measure involved only the metering of some 449 premises, all the clubs and hotels and many premises with gardens being already metered, it is apparent that the information to be deduced from the figure of consumption in these few instances would not carry the Committee much further in their researches, and while I am ready to admit that the recommendation is in itself good, and has, in fact, been adopted, I think it falls far short of the requirements of the situation. The quantity of water delivered and of water really necessary for all purposes being settled, as I think they may be taken to be, the only questions which require elucidation are first the causes of the waste and second the most suitable method of preventing it. The first of these seem to have been a serious stumbling block to the Committee, and notwithstanding the undoubted fact that it is only necessary to go into almost any house in the native town to see taps running water to waste full bore, they have not been able to bring themselves to subscribe to the theory that any practice of this kind exists. They impugn the accuracy of the estimate of 40 gallons a head on the grounds that in some sections of the native town the consumption is not much more than 20 gallons, and that the major portion of the waste is due to leakage from mains and fittings. I confess I am unable to follow the first of these arguments, the figures relied on are part of the very figures on which Mr. Snow's estimate was based, and as the number of premises with gardens remaining to be metered was relatively small, the logical conclusion would have been the selection for metering of one or all of the sections which showed a consumption much above the average. As regards leakage from fittings the Committee do not seem to have understood quite clearly that it is the duty of consumers to keep their fittings in good repair, and that it is essential to make it also their interest to do so. The leakage from this cause is of course not included in the allowance of 10 per cent. made by Mr. Snow. It must also be mentioned that the remarks made by the Municipal Commissioner in 1884, quoted in para. 4 of the Committee's report had reference to conditions that then existed, and that as for years past much attention has been given by a special establishment to loss from this cause, the state of fittings generally

has greatly improved, and with the enforcement of a better type of taps the improvement may be expected to steadily continue. Now, with reference to the 10 per cent. allowance for leakage from mains and reservoirs—3,600,000 gallons daily—which has been called in question by the Committee, the Corporation will, no doubt, be glad to learn that during the last two years every main which is provided with a Deacon's meter has been systematically examined by the Water Engineer, and the larger mains have been carefully sounded with the result that only three leaks of possibly old standing have been discovered. Mr. Bruce is now of opinion that including the loss from the reservoirs (about 3 lakhs daily) the total loss from this cause is not more than 4 per cent. Mr. Crimp, whose views I specially asked for on this point was not disposed to put down leakage from mains alone at more than one per cent. and he was very strongly of opinion, based on his survey of the Bombay subsoil, that any considerable quantity of water set free in the soil in this way must come rapidly to the surface when, of course, the discovery of the leak would follow. It will be for the Corporation to come to their own conclusion on the widely divergent opinions of their Committee on one hand, and Mr. Bruce and Mr. Santo Crimp on the other. For my part I have no hesitation in stating that I consider it established that the waste in excess of 4 per cent. is due to taps being deliberately left open and in some measure to defective fittings.

9. The crucial question of how waste can be prevented still remains, and there are only two proposals—to employ a large waste prevention establishment, or to insist on the affixing of meters. The former is supported by Mr. Crimp, the latter by the Municipal Engineers who have from time to time dealt with the subject, and I would invite special attention to the fact that among the latter is included Mr. Murzban whose knowledge of the customs and wants of the people of Bombay is probably unique. As to what is the most efficacious method of preventing waste there can be no doubt; Mr. Crimp admits that the household meter system holds the field, but his experience of the working of the other system in England has led him to hope that it can be adopted with success in Bombay. I should have hesitated to differ from Mr. Crimp had it not been for the fact that the system he advocates has already been tried and I think pushed to the utmost limits of practical efficiency in Bombay. Mr. Tomlinson between 1886 and 1894 spared no effort to check waste with the assistance of a special staff, and I would invite the attention of any one who wishes more detailed information on the subject to his admirable reports which were placed before the Corporation during the period referred to. As I knew that it was only with the greatest reluctance he brought himself to recommend the use of meters for domestic supplies, I enquired the cause of his change of opinion and will quote his own words in reply:—“Like Mr. Santo Crimp I came out from home loth to think of meters for domestic supplies. From 1886 to the introduction

of Tansa supply I held out against recommending the meter system, although there was much evidence of its being needful, but when I saw on the introduction of the Tansa supply that consumption which could not be touched by the Waste Prevention Staff was swallowing the whole of the magnificent supply without giving us any revenue for it, and deprived us of full pressure, although the supply was constant then, I could not hesitate to say that only the meter system would meet the case. Waste prevention work will always be necessary to deal with that unseen waste which goes on night and day; it cannot be extended to deal with the far larger quantity which is wasted during the day." The gist of the whole matter lies in the last clause. Leaks on the mains and leaky fittings can be discovered by examination made at night; leakage from taps left open during the day is not susceptible of discovery in the same way, and cannot be traced during the day except by the employment of an enormous establishment armed with powers of house to house inspection and summary methods of punishment. The latter must be either by prosecution or immediate cutting off of the supply without the circumlocution of obtaining the sanction of the Standing Committee. On these lines some good might be effected, but I would leave it to the Corporation to consider whether they can contemplate seriously the possibility of operations of this kind. I think I may safely say that the situation would be intolerable and the City would require a staff of special magistrates to hear on the one hand complaint of waste, and on the other probably as many complaints of extortion, assault and such other offences as the resentment of consumers might suggest. The meter on the contrary is a silent inspector and recorder of facts and in very few cases are its observations incorrect. I am aware that an outcry has recently been raised against them locally, but a general condemnation of them can have no solid foundation, inasmuch as they have stood the test of years in all parts of the world. The inferential meter is no doubt not quite as accurate as the positive, but the variation is in nearly every case in favour of the consumer, and any one who pleases can obtain a positive meter and use it. In several cases which I have investigated since all premises with gardens were metered, I found that excess consumption which was ascribed to the inaccuracy of the meters was really due to defective fittings or careless waste, and the meter is quite as accurate a guide to defective fittings and supplies a much more constant test than the sounding rod of Waste Preventing Establishment. I do not doubt that the introduction of the meter system will be attended with some difficulties in the beginning, but I believe they are not insurmountable if we proceed without undue haste, and I prefer this system to the other as interfering less with the privacy of the people and being at the same time the more efficacious. I would therefore urge most strongly on the Corporation that the

absolute necessity of proceeding without delay to consider the proposal made by Mr. Snow in his letter No. 5107 of the 4th June 1898. I have made no attempt to go into details as unless the Corporation declare for meters, it would be useless to do so. If they decide to make the experiment in one ward a small committee could thresh the whole question out in a few days.

10. Proposals for the new works in the lists given are now before the Corporation. Those in list A were recommended by the Water Mains Committee* and have been sanctioned by the Corporation, those in list B are the result of the enquiries made by the Standing Committee last October and November when in consequence of the partial failure of the Tulsi supply there was a scarcity of water in the Fort and Colaba. Both lists have been referred to me for opinion in connection with Mr. Santo Crimp's report.

List—A.

	Revised estimate. Rs.
(1) Cast Iron Main from Ghorupdeo Road to Sewree Cemetery Road 12-inches for 5,080 feet and 4-inches for 1,359 feet... ..	55,300
(2) Main along Kala Chowkey Road from Parel Road to Ghorupdeo and along Reay Road to Bhandarwada Reservoir of 18-inches diameter except for 600 feet for which 24-inches Cast Iron Pipes in stock are to be used. The 18-inches to be Cast Iron for half the distance and Steel for the other half. The main to have an emergency connection with the 48-inches Bhandarwada outlet	1,40,200
(3) 9-inches Service main connected at one end with Bhandarwada Reservoir and at the other with the Sewree Road 12-inches main and supplemented by a 9-inches main in Connaught Road connected with the 16-inches main in Parel Road	51,150
(4) Replacing 32-inches Vehar main for 1½ miles partly by 48-inches Steel Pipes and partly by 2,000 feet of 48-inches Cast Iron Pipes in stock.	3,26,400
(5) 9-inches main in DeLisle Road	18,550
(6) 4-inches main in Khara Tank Road	6,550
Total	5,98,150

List—B.

(1) 22-inches Steel main from the 48-inches Tansa main at Chinchpokli to Grant Road, there connecting with existing 27-inches and continued to Malabar Hill with 32-inches Steel main	2,07,300
(2) 32-inches Steel outlet main, Malabar Hill to Chowpati	32,150
Total	2,39,450

* Vide Vol. XXIII, Part J, pages 312 to 319, Record 1899-1900.

The Water Mains Committee, while of opinion that the present practice of allowing the supply mains to be drawn from direct is altogether wrong, decided that it was desirable to complete the works for the delivery of Tansa water to Bhandarwada first and that the Malabar Hill scheme should stand over. The reasons for this conclusion are not clear, and I am of opinion that in view of the fact that the Tulsi supply is more liable to fail than the Vehar, the direct delivery of Tansa water at Malabar Hill is the more pressing requirement. Of the eight works entered in the two lists, Nos. 2 and 3 in list A and both those in list B are in pursuance of the policy of delivering all the water in the first instance to service reservoirs. Item No. 1 in list A is required for the supply of water to the Mills at Sewree, the present 4 inches main being in a very bad condition and giving very little water; items Nos. 5 and 6 in the same list are also required for the supply of water for trade purposes. If the Corporation decide to adopt the recommendation of the Standing Committee either independently of or in conjunction with those of the Water Mains Committee, it will be necessary to limit the direct draw off from the Tansa main as much as possible, and the following works should be carried out:—

- (1) 15 inches main from 24 inches Vehar main at Parel Bhoiwada to Parbhadevi Road and 9 inches thence to Century Mill at a cost of steel Rs. 55,750 or Cast Iron Rs. 76,580.
- (2) 10 inches and 9 inches main in Grant Road to enable Kamatipoora to be supplied from Bhandarwada at a cost of Rs. 14,100.
- (3) 9 inches main in Tardeo Road from Forgett Road to Falkland Road for the supply to Mills in the vicinity at a cost of Rs. 9,300.

If these works be carried out, the direct draw off from the Tansa main will be reduced to about one million gallons daily, but no greater reduction is possible until the 32 inches main from Bhandarwada is laid to a further distance in the Parel Road so as to admit of the district round Jacob's Circle being supplied from that reservoir. The only work in the list not dealt with above is that of replacing $1\frac{1}{2}$ miles of the Vehar 32 inches main with 48 inches pipes. This is part of the project which involves the substitution of a 48 inches main for the existing 32 inches. The advantages to be gained by this scheme are:—

- (1) That Vehar can be temporarily drawn on for a full supply in case of a breach on the Tansa line north of Coorla;
- (2) that in ordinary circumstances the draw off from Vehar can be slightly increased and considerably so in the hot weather; and

(3) that the new 48 inches main will ultimately form part of the duplicated Tansa line.

The Committee have recommended, in view of financial consideration that only that portion of the main which is in a very bad condition should be replaced, and I consider this a very urgent work. It is impossible to say how much longer this main may hold out, but as the Corporation are aware it has been looked on with suspicion for a good many years past, and if any considerable number of lengths gave way, the inconvenience from the loss of the Vehar supply for a long period would be very severely felt. This with the mains in DeLisle Road and Khara Tank Road are the only works which I can recommend to be taken in hand before the question of waste is dealt with.

11. It will be observed that Mr. Crimp has not given a very positive opinion regarding the desirability of laying steel mains below ground, but he does not apparently altogether disapprove of this, except in cases where salt in considerable quantities is present in the sub-soil. I do not think the evidence is sufficient to enable the Corporation to come to a satisfactory decision, and it will, in my opinion, be advisable to refer the matter to an expert again as was done before, full details regarding the circumstances of the various lines of mains being furnished. I attach a table marked A* of estimates from which the desirability from a financial point of view of laying the large mains of steel will be apparent.

12. In view of recent discussions in the Corporation and Standing Committee, and of some public comments on the subject of the inequality of the charges for water, it will not be out of place if I touch briefly on a few points connected with the finances of the Water Department. In the statement marked B* will be found details of all items of revenue and expenditure from 1885-86 to 1898-99 both years inclusive. The net result is a deficit of some 37½ lakhs of rupees and I think it will be readily admitted that this Department has in the past been worked on lines that were much too favourable to consumers as a class. The approximate figures for 1899-1900 show that for the first time since the commencement of the period under review, there is a real equilibrium between revenue and expenditure. There is in point of fact a book surplus of over two lakhs of rupees, but for purposes of equitable comparison I eliminate the whole of this against the excess of charges over cost price for water supplied for Municipal purposes. This satisfactory result may be chiefly attributed to increased sales for trade purposes on account of less water being available from tanks and wells, but there is no reason to believe that we shall be able to maintain the revenue at this level unless we take measures to make a larger quantity than at present available at lower rates

* See Record of proceedings.

than twelve annas per 1,000 gallons. This can, as already explained, be easily done by controlling the waste. The most unsatisfactory feature, however, of the present system is the enormous revenue levied from water sold by measurement in proportion to the quantity supplied, as compared with that which is paid for by the tax on valuation. The average daily sales by measurement last year were 3.26 million gallons or about 10 per cent. of the total supply to the public, while the revenue from this source amounted to nearly 59 per cent. of the total receipts from the public. The remaining 90 per cent. of the water is sold (and half of it wasted) at the rate of about one anna per thousand gallons. It is perfectly clear from this that all those who have metered connections have grave cause of complaint, except perhaps, where only the four-anna rate is charged. Rates of 12 annas for trade purposes and 9 annas for chawls and bungalows are far too high and should undoubtedly be reduced. There should also be a minimum rate on valuation for the double object of preventing the reduction of consumption by the poorer classes below what is actually required and of making every property pay for the general advantage to the City of a good water-supply. The mere reduction of the water rates on sales by measurement will perhaps pacify one section of the public, but it will also increase the loss on the Department, and will not strike at the root of the evil. The whole scale of charges requires revision and any reduction that is made in the rates by measurement must be compensated for by an increase in the tax on valuation, or preferably by larger receipts from the surplus water that will be available for trade purposes if excessive waste is stopped. The Corporation have already before them Mr. Snow's proposals for a revised method of charging, and as I have already stated above, if the Corporation declare for meters, the details can be settled without much difficulty. If they refuse to attack seriously the question of preventing waste, it is a certainty that the water difficulty will become more acute and neither I nor the Municipal Engineers can suggest any other method of improvement.

I have, &c.,
W. L. HARVEY,
Municipal Commissioner.

The question of the water supply was discussed, as under, at a meeting of the Corporation held on 24th June 1901 in the Municipal Hall, Mr. D. E. Wacha presiding.

The Hon. Mr. Mehta said that the rest of the items on the special agenda were all connected with each other and referred to the important question of the water supply. He found that there was a very strong feeling among members of the Corporation after having received a report from the Deputy Executive Engineer, Water Works, that a report should be obtained from the Commissioner and the Executive Engineer. In the ordinary

Water debate
at the Cor-
poration.

course of business this report should have been submitted to the Executive Engineer and then after his remarks should have gone to the Commissioner and he thought they would have expected that the Commissioner should have sent that report to the Corporation with his observations. In a portion of the report there were serious charges, both against the department of the Executive Engineer and against the Commissioner and they must bear in mind that although the Commissioner never dies, just as the king never dies, still the Commissioner to whom these remarks would apply would be an absent Commissioner. He thought it was remembered that the Deputy Executive Engineer worked under the Executive Engineer. The water department was a department under the Executive Engineer and it was unfortunate that the Deputy Engineer should have sent his report straight to the Commissioner. To come to a definite conclusion on the matters involved it was necessary that they should have materials before them upon which they could judge what were the administrative defaults of the Department. Though it might be said that the matter would be again delayed, he thought in a matter of this character a delay of a week or a couple of weeks would not be of so great a character. The Corporation ought not to proceed to consider the question without full materials before them and he therefore moved that the consideration of the items on the special agenda be postponed and that in the meantime the Municipal Commissioner be requested to obtain and submit to the Corporation a report from the Executive Engineer on the statement of the Deputy Executive Engineer, Water Works, together with the observations of the Commissioner at as early a date as possible.

Mr. Shroff in seconding the motion said that besides charges against the Executive Engineer the statement of the Water Engineer also contained serious charges against the Corporation itself. If they accepted this document as it was, it would form a precedent and not only the Deputy Executive Engineer, Water Works, but the Drainage Engineer would consider it his right in future to send such statements direct to the Commissioner.

Mr. Cuffe confessed that he could not follow the argument of the Hon. Mr. Mehta in regard to this matter, because it seemed that there was absolutely nothing in common between the defence put forward by the Water Engineer, which they could consider at any time with the aid of the reports of the Executive Engineer and of the Commissioner, and the immediate requirements of the City. Measures were what were wanted at the present time and not mere unseemly wrangling as to the particular form which is to be observed in reports coming to the Corporation. They were met that day to bring some finality to the water question. What were they going to do? They were going to adjourn and put off perhaps for a fortnight or more an important public matter, a matter, he was told, on which the patience of

the public was fast being tried. What possible connection was there with the quality of the Talsi water and the letter from the Deputy Executive Engineer for Water works. They were surely competent that day to deal with that matter without deferring the consideration of the whole subject until the other report was brought forward. They had before them the report of the Water Committee making various recommendations and the letter of the Water Engineer had no bearing on them and there was nothing to prevent them from dealing with the Water Committee's report that day. There were recommendations made in regard to the mains and it was perfectly competent for them to deal with them that day even though they deferred the consideration of the Water Engineer's letter until a later stage.

Dr. Jehangir J. Cursetji said that there were certain allegations in the Water Engineer's report both against his own subordinates as well as against the Executive Engineer and the Commissioner and it was necessary that the question should be postponed in order to give the Engineer and the Commissioner the opportunity to explain these allegations after due enquiry.

Sir Balchandra Krishna said the tensions of the public mind on this subject had come almost to the breaking point and it would have been advisable to proceed with the debate on this occasion but, there was something in Mr. Mehta's argument that the serious allegation contained in the Water Engineer's report should be first attended to and the Executive Engineer should have the opportunity of having his say on the subject as well as the Commissioner. He would, however, only support the proposition if Mr. Mehta accepted a rider to his motion that the report he asked for be submitted within a fortnight. They could not shelve this question much longer, they must deal with it effectively. The public expected them to find an effectual remedy for the matters complained about, and if they went on shelving the question they would be failing in their duty.

Mr. Mehta accepted the rider.

Mr. Hormusjee Vakil said that as there had been complaints against the Water Department it was only fair that the head of that department should be heard in his defence. He had been attacked for months but he had now opened his mouth and the Corporation should see whether the allegations he made were well founded or not. If they were well founded then the Water Engineer established his innocence because he was absolutely helpless.

Mr. Mehta in reply to Mr. Hormusjee said he would include in his motion asking for a report the words "especially with reference to the allegations in paragraph twelve."

Mr. Lund could not understand that the question of the complaints about the non-supply of water was so mixed up with the defence of the Water Engineer that they were as Mr. Hormusjee said absolutely inseparable. He quite agreed that the Water

Engineer's defence and report should have careful consideration from the Corporation but that should not prevent them going on with the other questions. He therefore proposed as an amendment that the report of the Executive Engineer, Water Works, be postponed pending the receipt of the report asked for by Mr. Mehta and that the consideration of the other items of the water question be proceeded with forthwith.

Mr. Wadia seconded the amendment.

Mr. Petit and Mr. Khote spoke in support of the original motion.

Mr. Baptista did not see why such great importance was given to the report from the Water Engineer. The duty of the Corporation should be to consider the requirements of the City on the assumption that the administration was perfect and then make provision for the City's requirements. (laughter.)

Mr. Baptista : The Hon. Mr. Mehta laughs.

Mr. Mehta : Several other people laugh (renewed laughter.)

Mr. Baptista urged that there was no better opportunity than the present to show to the public they did not mean to shelve this question.

Rao Bahadur Dhakji Cassinathji asked if there was no connection between the Water Engineer's letter and the Water Question why was there such hurry in submitting it to the Corporation in an informal way. Unless they had the opinion of the superior officers no action could be taken upon it. There were a lot of complaints about the water supply, and the Water Engineer stated that if there were proper arrangements and his subordinates had carried out orders, there would never have been any reason for complaints. They should know whether this was a fact or not.

Mr. Kazi Kabiruddin supported the amendment.

Mr. Aitken said he agreed with almost everything that had been said about the importance of dealing with the letter from the Water Engineer. He agreed with both sides. It was said that the Water Engineer attacked the Executive Engineer and the Commissioner and it was also said that the Water Engineer had been attacked. These were all reasons why the letter should be considered. But the only connection he could see between that letter and the other subjects on the agenda was that they were about water. They had got a report from the Water Committee dealing with the purity of Tulsi water and the question of waste and suggesting remedies. They had got proposals put before them looking to the future. The letter of the Engineer gave certain reasons for a state of things in the past. He could not see why they should mix up the Water Engineer's defence as to why he did not do things in the past with the question now before them as to what should be done in the future. The greater part of the Water Engineer's report was taken up in

saying that he and his predecessors put certain proposals consistently forward. Members had come there expressly to deal with this great water question and this letter came in their way. One of the objections to it was that it had not come through the proper channel. In Government service the way of dealing with it in such an event would be by writing on the bottom returned for submission through the proper channel.

Mr. Mehta : We can't do that : because the Commissioner submitted it to us.

Mr. Aitken : Then too much stress should not have been laid on that point. This matter, he added, did not concern them there and they should put it aside for the present. They had a report from the Water Committee and several resolutions on the paper, and if after meeting to discuss these things they went away after postponing the subject ; he did not know what the public and the newspapers would say.

Haji Yusuf Haji Ismail said the public would be disappointed if they did not deal with the question that day.

Dr. Sukhia was surprised to hear gentlemen who usually supported discipline making remarks such as had been uttered. Europeans were, as a rule, the best for discipline, but in this matter they were not.

Mr. McDonald : I would ask whether this is a right and proper thing ?

Mr. Kabraji while agreeing that the Water Engineer's report should be deferred did not see why they should put off the consideration of the other questions. The Engineer's report was unsympathetic and one in which the fault-finding tendency prevailed.

Mr. Hormusjee : Is Mr. Kabraji in order in discussing the report ?

Mr. Kabraji : No. (much laughter) I only submit that the report be sent back to the Water Engineer and that we proceed to consider the other report.

The Hon. Mr. Mehta in replying on the debate observed that it was common sense to ask that a report which dealt not only with the Water Department and its deficiency, but also with question of mains, which was dealt with in the Water Committee's report, should be considered with those points. Were they to divide these matters up ? He was afraid Mr. Lund had not read the letter of the Deputy Engineer which comprised various other matters besides those connected with the administration of the Department. What were they to do with these matters ?

Mr. Lund : Consider them when it comes forward again.

Mr. Mehta said that members had not considered the papers before them when they raised objection to his proposal.

The Corporation would not be carried away by any threats or any intimidation of the public or the press. (Hear, hear.) The only question before them was were they doing their duty. He did not care what the public or the press might say to-morrow if he was satisfied in his own conscience, that they were having this question discussed in a proper way. In asking that the report of Mr. Bruce be deferred and the consideration of the other questions be proceeded with, Mr. Lund had forgotten that he (Mr. Mehta) had a notice of motion which raised the question of the character of the water distribution. Were they going to deal with that notice without discussing the questions which Mr. Bruce had raised?

Mr. Kabraji : That question can be also postponed (laughter.)

Mr. Mehta : Oh, yes ; I am perfectly prepared to see another member get up and say that the report of the Water Committee be postponed on account of the question of mains. So far as the mains for bringing Tansa Water to the existing reservoir the speaker stated that had already been decided, a resolution having been passed on the subject.

Mr. Cuffe : Are we on the main question ?

Mr. Mehta : Mr. Cuffe referred to this matter himself. He said you must discuss that question and now he prevents me discussing it, Am I in order in discussing it or not.

The President : Perfectly in order (laughter).

Mr. Mehta proceeding said he did not consider much about the discoloured water which was supplied for a few days. The question was a much larger one and concerned waste. The Corporation had said that the application of meters for the prevention of waste was not suitable to the habits of the people of this city. It had always been the belief of the Department and he charged Mr. Harvey with obstinacy on this point that meters would do the work. But they had pointed out and Mr. Santo Crimp had pointed out that measures for the inspection and prevention of waste would be nearly as good as the introduction of meters. (Hear, hear). The charge that he brought against the Water Department was that they had persistently refused ; because they could not get what they asked, to employ the Inspection Staff the Corporation had given them for the purpose of going into houses and preventing waste. That was one question which he would raise on Mr. Bruce's report and the report of the Committee. The attitude of the Corporation had been absolutely misrepresented in this matter, and it had been said over and over again in the much vaunted press that the Corporation had refused to do anything. That was perfectly untrue. The position of the Corporation has been that while admitting that theoretically the adoption of meters would be a good measure it was unsuited for a large native city like Bombay. Mr. Santo Crimp went into the question ; it was perfectly true that he was inclined to say introduce meters, but when he went round the

native town and saw the habits of the people he said it would never do. In his report he told them that inspection and prevention of waste would do. He (Mr. Mehta) went against the water administration, they had taken one view and persistently held their hands and had not taken a measure which though it would not have fully stopped waste would have considerably diminished it. Mr. Bruce had attacked his subordinates and his superiors; and if his letter was so purely irrelevant to the other points as was stated why was Mr. Bruce in such a hurry to bring it forward on the very day when the subject of the water supply would be discussed.

On a division being taken Mr. Lund's amendment was negatived and Mr. Mehta's motion deferring the consideration of the whole subject on being put as a substantive proposition was carried with only one active dissident.

The following report of Dr. Cayley, the Divisional Health Officer, on the water supply for the month of June 1901, was considered by the Standing Committee of the Municipal Corporation on 17th July 1901.

Condition of
the Pipe
Water.

The report stated:—"In the interval since the last report was submitted, over 20 inches of rain have fallen, which have effected a considerable improvement in the Vehar and Tansa waters, but only a slight improvement in the Tulsi water. The Vehar and Tansa waters are now both fairly good potable waters, but the Tulsi water, as delivered at the Malabar Hill Reservoir, still has a bad smell and a dark yellow colour. At the instance of the Water Engineer several examinations of the Tulsi water are made from samples taken—1 from the lake, 2 from different points in the course of the main, and 3 from the Inlet Reservoir at Malabar Hill. These examinations were made with the object of discovering, if possible, where the contamination of the Tulsi water, which caused the change in the colour and the offensive smell, had taken place. The smell which was most marked in the sample taken from the air cock at Marole, was the smell of decomposing matter, and resembles the smell of Hydrogen Sulphide. The change in the colour of the water was found to be due to iron which had been dissolved from the pipes. From these examinations it was evident that the water was being contaminated while passing along the main, and that it was this contamination which had made the water so offensive and of such a bad colour.

Further examination of the pipes and pipe water were made by Water Engineer, and some samples of water from the pipe at Marole were submitted to undersigned on 25th June, and also several small tins, which were filled with matters taken from the interior of the pipe at this place. These matters were found to consist of pieces and flakes of iron some as large as walnuts, which had evidently rusted away from the interior of the pipe. They were covered with a black slimy mud, which had a distinct smell of Hydrogen Sulphide. This black slimy matter was found

to consist of a mixture of Sulphide of Iron with mud and organic debris. The samples of water taken from the pipe at this spot also had a distinct smell of Hydrogen Sulphide, and the same smell was noticed when the pipe was first opened, in order to take the samples. When this slimy matter was removed from the lumps and flakes they were found to consist of rusty pieces of iron which were very brittle and readily crumbled to a powder between the fingers. It was apparent then that the chief cause of the smell of decomposition in the Tulsi water was Hydrogen Sulphide gas, which had either been formed in the pipes or had been introduced into them from outside. The yellow colour, as previously stated, was due to the iron absorbed by the water from the rusted lining of the pipes. Material from the interior of the pipes was collected also from a point about 1-2 mile above Marole. The pieces here were found to be pieces of rusted iron and they were not covered with the black slimy mixture of Sulphide of Iron and mud. The only way in which I can account for the presence of this Hydrogen Sulphide gas in the pipes is that the mud from the bed of the Tulsi Lake contains some sulphur, and that, when this decomposed in the pipe in the presence of the loose flakes of Iron, Hydrogen Sulphide gas was formed, which combined with the iron to produce the Sulphide of Iron.

This does not explain why the fragments of iron, taken from the pipe 1-2 a mile above Marole, were not also covered with Sulphide of Iron. The water from the lake itself had a slight smell also, so it is extremely probable that the mud forming the bed of the Lake contains some sulphur, which is given off as Hydrogen Sulphide gas when decomposition occurs in it. The only other explanation is that Hydrogen Sulphide gas gains access to the water in the pipe at Marole from outside.

Colonel Weir in one of his reports records that a strong smell of Hydrogen Sulphide was noted one day on the flats at the north of the Island of Bombay. Hydrogen Sulphide might similarly be given off from the soil in the neighbourhood of Marole, although this does not appear ever to have been noticed. Even if the presence of this gas had been noted here I do not think it would possibly find its way into the pipe, and even if it did, it would not be likely to enter in such quantities as to produce the effect that has been observed in the Tulsi water. It seems evident that the smell in the Tulsi water is caused by the decomposition in the main of sulphur containing mud from the bed of the Lake, which had collected on the rusted fragments off the interior of the pipe, where Sulphide of iron has been formed which keeps up the smell in the water. The yellow colour of the water is undoubtedly due to the absorption of iron from the rusted interior of the pipe. A thorough cleaning of the pipe with a removal of all loose pieces and flakes of iron coated with this Ferrous Sulphide would undoubtedly have a good effect on the Tulsi water and would not only get

rid of the smell, but would also make the water a better colour. The bacteriological examination of the Tulsi water showed that a considerable reduction had taken place in the numbers of the bacteria present in the water. This has been the result of the dilution of the water by the rain that has fallen during the past month. In the bacteriological examination of the Vihar water large numbers of vibrios were found growing in the form of long spiral threads. This is the first time that these vibrios have been found to any extent in any of the waters since September of last year. The effect of the rains has been to reduce the numbers of bacteria present in both the Tulsi and Vihar waters. There has not been much difference in the Tansa Water. As regards the characters of the individual bacteria found, the most noticeable feature was the presence of a large number of vibrios in the Vihar water. Also in all the waters there was a marked absence of a chromogenic bacteria which had been present in large numbers in the dry weather."

Sir Bhalchandra Krishna said that the city was at one time led to believe that it was on account of the vegetable growth in the lake that the water was contaminated. They were now indebted to Dr. Cayley, who deserved best thanks for ascertaining the real cause of the contamination, which was due to the presence of Hydrogen sulphite gas.

The Municipal Commissioner (Mr. Sheppard) said that it was Dr. Turner, the Health Officer, whose attention was first drawn to the colour of the water and detected the presence of iron in it and who drew the attention of Dr. Cayley.

Sir Bhalchandra Krishna said that it was an advantage to have at the head of the department an officer, who had a thorough knowledge of things and was a trained scientific man. Thanks were due to Dr. Turner and Dr. Cayley for their report. The cleaning of the pipes would bring clear water into the City next year. The health Officer ought to try and find out whether the hydrogen sulphite gas was generated in any particular place and that it existed all along the pipe line. If it was generated in the lake, then it must run all along the pipe line.

Dr. Ismail Jan Mahomed said that thanks were due to both Dr. Turner and Dr. Cayley for the light they had thrown in the matter. He desired to know if the presence of hydrogen sulphite rendered the water impure and unfit for drinking purposes and whether that was the cause of the prevalence of diarrhoea in the city. He had recently seen two cases of guinea worms, which were extinct ever since the water had been brought down from Vihar by means of pipes.

Dr. Dadachanji agreed with the former speakers in complementing Dr. Turner, but he could not extend the same amount of courtesy to Dr. Cayley, who was at one time of opinion that the offensive smell of the water was due to the soil of the

lake being impregnated with organic matter, but who had now changed his opinion and said that it was due to incrustations in the pipe line. The speaker asked why these pipes had not been cleaned with self cleaning scrapers.

After some further discussion, on the motion of Sir Bhalchandra it has agreed that the Commissioner be requested to ask the Health Officer to report, whether the presence of hydrogen sulphite was injurious to the health of those who consumed the water.

Further debate on the water question.

The water question was further discussed at an adjourned meeting of the Corporation held on 25th July 1901, Mr. D. E. Wacha presiding. It had been decided that questions in regard to the water supply should be specially considered at this meeting and there was an interested gathering of members of the public.

The President intimated that copies of the resolutions passed at the meeting of ratepayers in regard to the meter question had been received.

The Secretary (Mr. Wadya) having read these resolutions, the President proceeded to intimate the procedure to be followed in the discussion of the water question. He suggested that they should take all the notices of motions on the agenda in the shape of one comprehensive resolution.

Mr. Mehta said they were going to consolidate the motions, but it was at the same time desirable that everybody should have an opportunity of putting forward their views. All the propositions would be taken at once and discussed, but when the time came for voting, each part would be taken separately.

Mr. Hormusjee Vakil said members were not aware that the notices of motions had been consolidated. All the members had not signed the minutes and those who were not parties to them ought to have the right of beginning the discussion. Each side would thus have two innings.

The President said the procedure as laid down by Mr. Mehta was quite correct. Everybody would have a right of speaking according to his lights, Mr Mehta's motion on the paper was really a very comprehensive one, embracing many things included in the several similar motions and he therefore asked Mr. Mehta to move his proposition.

Mr. Mehta said he considered this occasion to be of such a character that one should not be tempted to make an oration. He was not going to approach the discussion of this very important subject except in a very sober and practical manner; so that the object they had at heart might be fully discussed and some solution found for the difficulty in which they were placed. He appealed to members to devote themselves to the consideration of the real question before them irrespective of all

extraneous and personal considerations. It was their duty to approach the subject with the single-minded purpose of seeing if they could find a solution of the difficult question which stared them in the face in regard to the Municipal administration of this City. The question was really not one of meters as unfortunately it had been reduced to, though of course meters would very largely enter into the discussion of the question. The real question was to find some means for the purpose of remedying the loud and just complaints they were constantly hearing from the ratepayers as to the insufficient and irregular supply of water. In the circumstances of the City of Bombay, with the system of house connections being introduced, water should be supplied to such an extent that there may be no difficulty in meeting the sanitary requirements of the City. It was on the initiative of the City and Corporation, and not on that of the Executive Officers of the Municipality that the ratepayers were subjected to an additional and large expenditure for the purpose of securing a constant and full supply of water. He reviewed the development of the water supply and the successive adoption of the Vehar, Tulsi and Tansa lakes as sources of supply. It was at very heavy cost that they brought in that large supply from Tansa, which enables the City to take credit for having one of the most magnificent water supplies in the world and they ought to try their best to find remedies for the complaints which were now made. He had been very much disappointed to see that in the deliberations on a question of this difficult character the members of the Corporation had not got the assistance they should have got from the public press. They had had articles abusing them to a certain extent; perhaps abusing was too strong a word, but coming down upon them. It was intimated that they did not take a particular view and ought to be turned out; that was the way in which one of the leading Anglo-Indian papers had referred to this question. He attached great weight to public opinion and he was glad to have the resolutions from the public meeting but there again he was disappointed. He would like to have seen arguments advanced at that meeting that would have strengthened his opinion that meters should not be introduced in the City. Instead of that he found that the principal speaker had absolutely given away the whole case. He was horrified to find that after a very long speech the gentleman came to this end: "Put your meters in but only charge us our assessment rate." The burden of the speech was "have your meters but don't charge us more than the present assessment rate."

Mr. Hormusjee Vakil asked that the passage in the speech should be read.

Mr. Mehta read from the speech as reported in a vernacular paper.

Mr. Sukhia asked if it was in order to refer to what took place at the ratepayers' meeting?

The President : The resolutions of the ratepayers' meeting are before us and it is perfectly in order.

Mr. Mehta proceeding said he believed some ratepayers' representatives were at that meeting and a gentleman got up and said if they didn't hold the opinion he was setting forth they should resign their seats. He should have told them to go to their constituents, explain their views and if the voters were not satisfied with the explanation give them an opportunity of electing some body else who represented the voters' views. The speakers at the Ratepayers' meeting had supplied arguments to strengthen the hands of their opponents. The gentleman who made the remark just quoted also said that he was acquainted with most European towns and in no civilized city was the meter system introduced.

Mr. S. C. Dhondy interrupting observed that they did not object to the experiment with meters if it was done at the cost of the Corporation and not at the expense of the public.

Mr. Mehta : If members believe that, and that we are not to charge more than four per cent. on the assessment, then the difficulty can be met. There appeared, he said, to be a misapprehension. No Municipal officer had suggested that meters should be introduced in the whole city, but only in one ward. There never had been a proposal for the metering of the whole city for a long time to come. Mr. Snow and Mr. Tomlinson pointed out that it would take a long time for the metering of one ward to be carried out. At the public meeting the real point was never grappled with. Nobody seemed to have considered the question from the point of view which Mr. Murzban presented and which Mr. Snow afterwards adopted. Mr. Murzban pointed out that if they were going to introduce meters their rates of charge must be radically altered. Very great and right stress was laid upon the point that the natives of India are of so thrifty a character that if they had to pay more they would not take sufficient water for purposes of cleanliness. But it must be also borne in mind that in Mr. Snow's report there was a remedy for that evil. The system recommended was that in the first instance there must be a minimum charge for a certain quantity of water which everybody must take, sufficient for all normal purposes. That quantity was calculated at twenty gallons per head ; that quantity every body is bound to pay for, and therefore everybody will take it. What was the use therefore of saying that the people would not take sufficient water for sanitary purposes when those who proposed the meter scheme had already met that difficulty.

The great fear was that the proposal to adopt meters was a way of getting additional revenue out of the ratepayers. That was partly true and partly incorrect so far as the officials were concerned. But it was entirely incorrect so far as the report of

the Water Committee was concerned. It had never entered their minds to discuss the matter from the point of view of revenue. The law prohibited the Corporation making a profit out of their water revenue. Mr. Harvey proposed to raise the water tax, but the Standing Committee threw out the proposal. The object of the Water Committee, in recommending the experiment with meters was only to ascertain if the different views about wastage of water could be reconciled by information obtainable by the experiment. It was stated that the Corporation were bound to go by the opinions of their experts. There was a time when he held such a view but he said now that the Corporation was not to be bound hand and foot to experts. The Corporation were in a very unenviable position in regard to expert advice for whether they followed it or not, they were made the scapegoat. The City had suffered not a little from following the opinions of experts, and as instances in point he referred to the sewage outfall, the flats and the adoption of the European pattern of house connections. But was it correct that all expert advice had been on the side of the introduction of meters? Mr. Santo Crimp, who had all the materials before him including Mr. Tomlinson's reports and had Mr. Murzban at one ear, and Mr. Bruce at the other, did not say that meters were absolutely necessary. He said "although it may appear paradoxical, there may be less waste with a constant supply than with an intermittent supply, because an efficient system of waste prevention is a necessary consequence of a constant supply." He (Mr. Mehta) was quite prepared to admit there was a certain amount of negligence in the use of water taps, but if water was sent to houses in the night surely nobody would expect working people to sit up waiting for the water (Hear, hear). Mr. Santo Crimp said that given a constant supply with an adequate staff for prevention of waste, household meters would not be necessary. (Hear, hear). It had however to be considered that the waste prevention staff would have to enter houses and might not a great deal of harassment and oppression be alleged? (Certainly) Mr. Harvey dwelt on that, but he (Mr. Mehta) agreed with Mr. Santo Crimp in thinking that a practical method of dealing with the difficulty could be devised. Mr. Santo Crimp admitted that the household meter system was the most effective method of checking waste—(Hear, hear).—but did it follow that they should introduce it. One strong argument against its introduction, unless absolutely necessary, was the cost. Mr. Snow calculated that it would require Rs. 42,000 to meter a section of Bhuleswar ward with a population of 38,363. On that basis, the cost for the whole city would be something like fifteen lakhs of rupees, which on the estimated life of a meter would have to be renewed every twenty-five years, unless they provided a sinking fund. The necessary staff would cost Rs. 3,769 per annum.

Dr. Sukhia pointed out that Mr. Tomlinson stated that to

meter 18,800 houses would cost Rs. 13,46,000. There were 56,000 houses in Bombay.

Mr. Mehta observed that he had taken Mr. Snow's calculation, but if the cost were thirty or forty lakhs it only strengthened his argument. But fifteen lakhs even was a very large outlay to be incurred, unless for a necessary purpose. He knew that by manipulating the water charges they could get a return that would more than twice cover this initial outlay, but they would not be justified in taking this money from the ratepayers unless there was absolute necessity. (Hear, hear). It was contended that while forty gallons per head reached the houses, twenty gallons per head were wasted. If that was so, it was a serious state of things and something should be done to remedy it. But that conclusion had been very closely contested. The Water Committee asked the Water Engineer to take measures to test where the waste actually occurred. He told them that the wastage from the mains was only very small, about four per cent., but then it came out that the examination he had made was of the most incomplete and perfunctory character. Up to the present they had not the means of really coming to a judgment as to the actual leakage from the mains. From a return prepared in regard to London and other English cities and towns it appeared the use of Deacon's meters showed that water mains were certainly responsible for a great amount of leakage. This was one of the points on which the Corporation should have been supplied with definite information from the experts, but they were told that some stop cocks could not be found and others were in such a state that they could not be shut. It was the duty of the Water Department to see that such taps were in proper order. When it was stated that the habits of the people were responsible for waste, the Committee asked for a return of the consumption per head in each section of the different wards. That table showed that in Mandvie the consumption was only 24 gallons per head, in Dhongri 22, Girgaum 24, Mazagon 21, First Nagpada 21, Mahim 21, Dhobi Talao 26 and in other congested districts 23 gallons per head. It occurred to the Committee that if it was the practice of the natives to be wasteful in the use of water, it would be apparent in these thickly populated parts of the city. But no explanation could be given of the facts shown by the figures. The other side of the picture was that consumption was larger where the population was smaller. In the Esplanade it was 73 gallons per head, and in Chaopatty 65. He had not the slightest doubt that in the houses with gardens in Walkeshwar, Mahalakshmi and Chaopati there was enormous wastage. He knew it from his own experience; and the Committee were right in suggesting that every house in the city with a garden should be metered. It was in the hope of settling the facts regarding wastage, that they recommended the adoption of meters in certain parts of the town, as an experiment and in the hope that it would show that there was no need for

their general introduction. Reading through the whole literature on the subject it was impressed upon him that they should find out the real leakage in the mains and lakes and ascertain the consumption in other directions outside the houses. It would be wise to have a special officer to apply himself to the testing of the mains by Deacon's meters as the Water Engineer was taken up with one view. He further suggested that the work of this special officer should be watched by a small Committee of the Corporation. Mr. Santo Crimp had pointed out that they must have Tansa water poured into the reservoirs ; and whatever expense was necessary for bringing that water into Malabar Hill and Bhandarwada reservoirs it should, in his (the speaker's) opinion, be undertaken at once. He did not want to go into any personal questions, but he blamed Mr. Bruce in one respect. He quite admitted that Mr. Bruce was entitled to the opinion he formed in regard to waste and that it could be limited only by the introduction of meters. But when he saw that there was a Committee of the Corporation who hesitated and thought that other means might remedy the difficulty he was bound to do as much as lay in his power to try and remove the cause of the complaints which were raised. There had been great complaints of the unequal distribution of water through the supply not being constant and at full pressure. They had repeatedly pointed out to him that they had given him an Inspection Staff, which he must employ for the purpose of finding and checking waste. He had not the slightest hesitation in saying that that duty had been thoroughly neglected by the Water Department. It might be said that there would have been a cry that the people were being harassed and oppressed, but still the work had to be done. There were other departments of the Municipality, whose work was complained against, but it was not stopped on that account. The reason why it was not done was because the Water Engineer did not believe in it. The head of the Water Department was bound to employ the men placed at his disposal for the purpose of checking waste. The Water Department required a great deal of tact in dealing with the people and from the correspondence that appeared at the Committee it appeared that Mr. Bruce had failed to see that in dealing with complaints he should show tact and sympathy. In reference to Mr. Bruce's letter to the Commissioner which was submitted to the Corporation, Mr. Mehta said that hitherto they had been proud and the Executive had been proud that they and their subordinate officers had acted loyally with each other. He was therefore very sorry to see such a letter as that which Mr. Bruce placed before the Corporation. Mr. Harvey was absent and Mr. Bruce said things which certainly could not but reflect upon his immediate chief. Mr. Bruce did not realise his position in the scale of the Municipal service. He seemed to think that he must have the fullest command of his

subordinates. He (Mr. Mehta) asked members and Government officials there, whether a subordinate officer, while perfectly free in his own area was not bound to carry on his department in submission to his superiors? He sincerely said that when he read this letter he was sorrier for Mr. Bruce than for anybody else. It was with great regret that he made these remarks. On the Municipal service depended the welfare of the City and he asked the Corporation to draw the attention of the Commissioner to these matters in order that he might see that it is time the Department should be placed upon a footing, in which such things cannot occur. He moved the following proposals:—

“That the Report of the Committee appointed by Corporation Resolution, dated the 22nd April, 1901, on questions relating to the water-supply of Bombay be recorded.

“That, before proceeding to decide that the experimental measures recommended by the Committee be taken in hand, the Corporation think it desirable that a Municipal officer, specially chosen by the Municipal Commissioner in consultation with the Executive Engineer, be deputed to ascertain, by all possible means, the quantity of water, actually brought into the city; and also to ascertain, by application of Deacon's meters and all other available means, the amount of waste occurring through leakage from the mains and reservoirs, and the amount of consumption or waste of water of all sorts which takes place except such as takes place after reaching house-pipes. The Special Officer should report to the Commissioner, through the Executive Engineer, the results arrived at by him, and the Commissioner should be requested to submit the report with his own remarks to the Corporation.

“That the Commissioner be requested to instruct the Special Officer to work in consultation with a committee composed of Major C. B. Mayne, R. E., Khan Bahadur Darasha Ratanji Chichgur, Mr. Alex. Mackenzie, Dr. Ismail Jan Mahomed, the Hon. Mr. Ibrahim Rahimtulla, the Hon. Sir Bhalchandra Krishna and Mr. Hormasjee Shapoorjee who should be requested to carefully observe his work and report thereon to the Corporation.

“That the Corporation desire that the works named below which are necessary for carrying Tansa-water direct to the Malabar Hill and Bhandarwada Reservoirs should be taken up and prosecuted as quickly as possible, the cost being met as recommended in Standing Committee's Resolutions, dated the 4th October 1899, and 8th November, 1899.

Main along Kala Chowkey Road from Parel Road to Ghorupdeo and along Reay Road to Bhandarwada Reservoir of 18 inches diameter except for 600 feet for which 24-inches cast iron pipes in stock are to be used. The 18-inches to be cast iron for half the distance and steel for the other half. The main to have

	Rs.
an emergency connection with the 48-inches Bhandarwada outlet	1,40,200
9-inches service main connected at one end with Bhandarwada Reservoir and at the other with the Sewree Road 12-inches main and supplemented by a 9-inches main in Connaught Road connected with the 16-inches main in Parel Road	51,150
22-inches steel main from the 48-inches Tansa main at Chinchpokli to Grant Road, there connecting with existing 27-inches and continued to Malabar Hill with 32-inches steel main ...	2,07,300
32-inches steel outlet main, Malabar Hill to Chowpati	32,150
15-inch main from 24-inch. Vehar main at Parel Bhoiwada to Parbadevi Road, and 9-inch thence to Century Mill at a cost of	55,750 a
	<hr/> 76,580 b
10-inch and 9-inch main in Grant Road to enable Kamatipoora to be supplied from Bhandarwada at a cost of	14,100
9-inch main in Tardeo Road from Forjett Road to Falkland Road, for the supply to mills in the vicinity at a cost of	9,300

Total ... 5,09,950
or 5,30,780

a If of steel.

b If of cast iron,

“That the Commissioner be requested to submit at an early date the plans and estimates for additional filtering accommodation promised in his letter, dated the 14th June 1901, together with proposals for meeting the cost of the additional filter beds.

“That the Commissioner's letter, dated the 19th June 1901, and 10th July 1901, be recorded, and the Commissioner be informed that the Corporation are of opinion that the distribution of water in the city is of a character to justify in a great measure the loud and recurring complaints which are made by the rate-payers, and that, if the existing Water Department is unable to devise measures to remove these complaints, the Commissioner should proceed to take steps to reform and reorganize it.

Sir Bhalchandra Krishna seconded the motion and it being then 5-15, p. m. the discussion was adjourned till 29th July 1901.

The Corporation resumed on 29th July 1901 the consideration of the water question in reference to which the Hon. Mr. Mehta moved a comprehensive resolution at the last meeting.

Mr. Hormusjee Shapurjee proceeded to reply to Mr. Mehta's remarks in reference to the recent ratepayers' meeting which passed resolutions on the meter question. He observed that the meeting was a very influential one and represented the aristoc-

racy of intellect and wealth in Bombay. It was urged that ratepayers' representatives on the Corporation, who did not represent the views of their constituents on this question should go before the electors. They had, he said, to go against the strongly expressed wishes of their constituents. Councillors were invited to attend that meeting by a notice which appeared in all the papers.

Mr. Hormusjee proceeding said that Mr. Mehta stated that the introduction of meters was not intended to increase revenue. He was afraid Mr. Mehta was speaking without the book. By this year's budget it was apparent that though they were receiving ninety lakhs of rupees, the Executive Officers desired that the revenue should be increased by Rs. 1,75,000. The Standing Committee reduced that amount to a considerable extent. The estimated income from water taxation was Rs. 19,06,000. Of that amount they got seven lakhs from ratable valuation and the balance from meter measurements. There were about 2,500 premises metered out of 37,000. The amount received from the 34,000 premises that were not metered was only seven lakhs as against about twelve lakhs from meters. It was evident that there was a desire to get more revenue by meters. Mr. Mehta said that the Corporation had no power to make a profit out of the water supply. But if they knew that now, neither Mr. Mehta nor his friends the President and Mr. Ibrahim Rahimtula knew it in January last when he (Mr. Hormusjee) brought the matter forward.

The Hon. Mr. Ibrahim Rahimtula said Mr. Hormusjee's statement was entirely opposed to facts.

Mr. Hormusjee: Mr. Ibrahim said there were no negative words in the Act.

Mr. Ibrahim: The facts are incorrect again and I am ready to furnish an explanation of what I said.

The President: Mr. Ibrahim has contradicted the statement and I think Mr. Hormusjee it is the rule when a member offers a contradiction to accept it.

Mr. Hormusjee said he accepted the contradiction but referred to a rider moved by Mr. Ibrahim that counsel's opinion be taken in the matter. Counsel agreed with the view which was expressed on his (the speaker's) behalf that the water rates be reduced. On the last occasion Mr. Mehta said it was only during the last year that they had been getting a profit but they had been actually getting profits from the water consumption for the last four years. In the present year the estimated revenue is nineteen lakhs against Rs. 16,40,000 expenditure. He contended that the introduction of meters for bungalows and gardens as an experiment had been a total failure. Before the year was old he brought this matter to the notice of Mr. Harvey and pointed out that the result of

the meters in bungalows and gardens was that he thought revenue had been increased, a number of gardens had been destroyed, and people had dug up their wells. As a consequence there were cases of plague in bungalows where there had been none before. There was a tremendous outcry as to the irregularity of meters. Mr. Mehta said he had had experience of that kind and he was able to remedy the matter. He was a gentleman of fortune and was very fortunate in getting the assistance of the Municipal officers as soon as it was needed (laughter).

Mr. Mehta: I never had the assistance of any Municipal officer.

In reply to a further remark by Mr. Hormusjee, Mr. Mehta said his meter was perfect and he had pointed out that in his case the waste of water was due to the negligence of his servants.

Mr. Hormusjee proceeding to deal with the question of waste said that the Municipal officers stated that 58 million gallons of water left the lakes.

The water that entered the town at Chinchpoogly and Ghat Cooper was stated to be 35 million gallons. But he calculated that only 31 million gallons entered the town. At any rate, between the lakes and Ghat Cooper and Chinchpoogly there was a loss of from thirty to forty per cent. The domestic supply was about 21 million gallons which gave them about 25 or 26 gallons per head. Was that an excessive quantity? One of their executive officers said that thirteen gallons per head ought to be enough though one of the Divisional Health Officers stated that the Health Department estimated 45 gallons for each milch cow. When the supply was nineteen gallons per head, Sir Charles Ollivant thought it insufficient and persuaded the Corporation to incur the additional expenditure of a crore and a half to increase the supply. In London, the supply was from forty to forty-five gallons per head and in Glasgow it was fifty gallons. There was no doubt a very large waste of water but even if some of it was due, as was alleged, to the people leaving taps open the distribution of water at unholy hours was responsible for that. It was said that there were meters in Berlin, but they had set their faces against German things. Compared with Calcutta, Bombay had fifty per cent. more taxation and they were to be told they should not have more than one-third the water Calcutta got. Mr. Hormusjee proceeded to quote from scientific authorities on water supply and meters as given by Khan Bahadur Darashah Chichgar in the "Akbari, Sandagur" and was still speaking when the clock struck four having already occupied only a few minutes short of an hour.

Mr. Shroff rose to a point of order. Mr. Hormusjee he said had been quoting authorities which had been circulated among the members and it was a thorough waste of time and mem-

bers patience was about exhausted. If Mr. Hormusjee would throw some fresh light on the subject it would receive attention.

The President appealed to Mr. Hormusjee to bear in mind the time and the patience of his audience and to stick to the point as far as possible.

Mr. Hormusjee continuing said another point was whether under the Act it was competent to meter the town so as to derive revenue thereby. He drew attention to section 140 under which they were allowed to raise revenue and the primary way which it was to be derived was by ratable valuation. By section 169, power was given to the Commissioner in certain cases to raise revenue by means of meters with the consent of the Standing Committee. At present they got 50 per cent. by way of meters. They delegated the power of the Corporation to the discretion of the Commissioner, but if they left it there the sixty per cent. would be increased. Did the Legislature contemplate that the Corporation should give up the power of raising money and should go to the Commissioner for the purpose of raising the water tax? He contended that the people were not now getting a sufficient supply of water and if meters were introduced the people would not use enough for sanitary purposes. He proposed as an amendment to Mr. Mehta's motion "that the Commissioner be requested to prepare and submit to the Corporation at his early convenience a scheme for an efficient staff for the systematic and periodical survey of the mains and pipes so as to detect and remedy leakage and stop the waste of water." He thanked Mr. Mehta and Sir Bhalchandra for the relief given to the ratepayers by the postponement of the meter experiment. But in regard to the special officer whom it was proposed to appoint to test the mains, so long as human nature was human nature the inclination of that officer would be to support the opinions of his superior officers ("No. No.") He would be glad if he were undeceived on this point. The service pipes should be examined as well as the mains to avoid any mere inferences should no wastage be discovered in connection with the mains.

Mr. Jagmohandas Vurjeevandas seconded the amendment.

Dr. Sukhia in the course of lengthy remarks took exception to the names of the Committee proposed by Mr. Mehta. He proposed that Mr. K. N. Wadia, Dr. Dinsha Master and though not presumptuous his humble self (much laughter) be substituted on the committee in place of others.

Mr. Wadia said he preferred not to serve on the Committee.

Dr. Master also asked to be excused.

Mr. Mehta: Perhaps Dr. Sukhia will now ask to be excused (laughter).

Dr. Sukhia, no as a matter of public duty I would be prepared to spend days to get at the truth of this matter (laughter). Proceeding he dilated on the possible effects of the introduction

of meters and the danger that the people would use less than would suffice for sanitary purposes.

There were other possible evils besides danger to health and uncleanness. If he said, you charge for water people will think it will be much better to go for alcoholic drink (laughter) and there will be degradation.

Dr. Sukhia was still speaking when the clock struck five. A number of member then left their seats but as there was still a quorum Dr. Sukhia continued as before.

Mr. Kazi Kabirudin said that as the Council usually sat from three to five o'clock an adjournment should now be made.

The President said the rule was that if a member was speaking they could not adjourn whether it was five or six o'clock until he had finished. Subsequently the President again appealed to Dr. Sukhia to shorten his remarks.

Dr. Sukhia, however, continued until 5-15. When he sat down.

The Corporation then adjourned till Thursday.

The Corporation, proceeded to resume the discussion on the water question.

The President said that in resuming the debate, he would appeal to members to try and economise public time as far as possible. (Hear, hear).

Dr. Cowasjee:—This is the sixth time you have said that.

The President: I have said it a sixth time and I hope I shall not be under the undesirable necessity of saying it a seventh time. It is only necessary to say that I hope members will remember it is perfectly useless to travel over ground traversed by previous speakers. If only members will bring forward fresh arguments, that may be of use to the Corporation, it will be well.

Mr. Dhondy in resuming the debate on the water question contended that there was leakage of the mains. Regarding the Committee which Mr. Mehta had proposed, he suggested that two or three other members should be added, as he had talked with several members already on the Committee and he was sorry to say they were in favour of meters (laughter). He suggested that Dr. Dadachanji, Mr. Kazi Kabiruddin and Mr. Manmohandas should be added to the Committee. Referring to Mr. Bruce's letter to the Corporation, he said he found that Mr. Bruce was not on good terms with the European officers and if a man was not on good terms with his own, he must have some drawback. The fact that he came to the Corporation without consulting his superiors showed that he must be a very head-strong man and it must be a job for his superiors to work with him. In 1898, he (Mr. Dhondy) found that there was leakage at Bhandarwada Reservoir. He asked Mr.

MacDonald to go and see it with him, but he suggested that he should speak to Mr. Bruce. He (the speaker) drew the attention of Mr. Bruce to the matter and waited for several months for a reply and had to send him a reminder.

Mr. MacDonald: Mr. Dhondy was at Deolali during those months.

Mr. Dhondy: That is so. But if there was a leakage representing a loss of Rs. 75,000, it was his business to take steps to prevent it. I was a Councillor and if to a man like me (laughter)—he did not give an answer, what answer would he give to the public. Proceeding Mr. Dhondy contended that the re-organization of the Water Department which had served the public for thirty years was unnecessary. It was apparent that the Water Engineer was himself in fault and why should they trouble the poor subordinates?

Mr. Jafferbai Rahimtulla said he had a difficulty in regard to the last paragraph of Mr. Mehta's motion. This paragraph referred to the complaints in regard to the distribution of water and stated that if the existing water department was unable to adopt measures to remove these complaints, the Commissioner should proceed to reform and re-organize the department. What was the meaning of the word reform? Mr. Mehta often accused other members of moving vague propositions, but he had been here caught in the same difficulty himself. It might mean that the Commissioner was to come forward and say that an additional staff was necessary. He understood that the Commissioner had already interpreted the motion as meaning that outsiders were to be put into the department, and old people should be set on one side. He understood that an outsider, who was thrice refused by Mr. Harvey had been accepted by Mr. Sheppard. If that was to be the interpretation of the resolution, the Corporation would pause before passing it. If on the other hand the motion meant that the Commissioner was to address a mild remonstrance not amounting to censure to Mr. Bruce, the Corporation would agree to it.

Mr. Manmohandas Ramji spoke against the motion.

Dr. Jehangir J. Cursetjee thought the Corporation would do well to follow Mr. Mehta on the present occasion.

Mr. Unwalla said that if the proposition were passed, the public would certainly await with keen interest the report of the special officer regarding the question of leakage in the mains and reservoirs. If he reported that there was very little wastage from the mains or reservoirs, the inevitable conclusion would be that there was wastage in the domestic consumption. What was then to be done by the Corporation? Mr. Mehta's motion implied that they would pass a resolution in terms of the report of the Committee recommending meters. What were Mr. Mehta's views on this point?

Mr. Mehta said it was not a question of his views, but it was a matter for the Corporation to decide.

Mr. Unwalla said he would vote against the motion.

Mr. Cuffe said the series of propositions brought forward by Mr. Mehta would probably find acceptance. Of course they shelved for sometime the experiment with the meter system and one of the drawbacks of that was that it threw them back upon one experiment only. The measure now suggested for preventing waste seemed rather a weak reed to lean upon. If they failed, and loud and recurring complaints were made in every hot season he supposed the Corporation would consider what the alternative proposal was. The duplication of the Tansa main would cost some fifty or sixty lakhs of rupees. If they could not check waste and increase the supply by other means to such an extent in the hot months as to prevent complaints there was no alternative but to bring more of the Tansa water to Bombay. The ratepayers' meeting no doubt took that matter into full consideration; if they didn't they ought to have done so (laughter.) According to the "Municipal Journal" meters in Melbourne had been found to prevent waste to such an extent that it had been found possible to supply water at a very small charge. He believed that in Bombay the meter system had never had a fair chance of becoming acceptable to the people owing to the conditions in which it was introduced. It was quite certain that in the past, many of the meters supplied to the public of Bombay had been somewhat unreliable (Hear, hear, and voices: "14 per cent." and "47 per cent.") that had something to do with the hostility to their use. Then look at the charge they made for water supplied by the meters. (Hear, hear)—and the terrible bludgeon clause which the Standing Committee adopted under which when a man had had a meter for a number of years and had exercised all the care and economy possible in its use, suddenly finds himself called upon by the Municipality to pay upon a four per cent. basis. (Hear, hear.) These conditions might easily be modified. If he were anxious to introduce to the market something which the market had not been accustomed to receive he did not think he would charge the maximum price for it at first. He contended that having supplied meters which were above suspicion they should supply water at rates much below those charged at present, and at the same time abolish that bludgeon clause by which they could charge on the four per cent. basis. Referring to the Water Department and the complaints that had been made, he said the latter had been associated quite as much with the quality of the Tulsi water as with insufficient supply in certain parts of the town. Mr. Mehta held that the quality of the water was not so bad as it was made out to be, but either he did not trouble the Tulsi water much or he blended it with a liquid of a more potent character. (Laughter). The fact that they recommended an expenditure of over five lakhs of rupees for the construction of mains and filter beds appeared to him to prove that the water

about which complaints had been made was not wholly under the control of the Water Department. In common with other departments of the Municipality this Department suffered from the defects of the system inaugurated in the time of Mr. Acworth, the system of promotion by seniority, a system which worked departmentally might be perfectly good, but which when worked interdepartmentally in many cases put round men in square holes. It was a system which to a greater or less extent impaired the efficiency of a department and which no members of the Corporation would dream of adopting in the conduct of his private affairs. (Hear, hear). The Water Department had in some measure suffered from this. He hoped the Commissioner would bear in mind in future the essential qualifications which were necessary if a man appointed in the Water Department was to successfully carry out the duties allotted to him. Some 20 or 25 sub-inspectors had been appointed for the prevention of waste, but the measure was doomed to failure, because the qualifications necessary for carrying out the very delicate duties involved were higher than those possessed by the men now employed in the department. His advice to the Corporation was to sweep away lock stock and barrell those twentyfive sub-inspectors and appoint seven or eight men to carry out the various measures spoken of in the report which would probably in time give happier results than had been so far obtained by the Waste Prevention Department. He hoped the Corporation would at this stage adopt the proposals submitted by the Hon. Mr. Mehta.

Mr. Hassambhoy Visram thought there was one loophole in the motion which would ultimately lead to the adoption of meters in the City, a course to which he was opposed. Somebody in England wanted to sell meters to the City at a large amount (laughter) and the City, he contended, had not the money at its disposal.

Khan Bahadur Darashah Chichgar urged the application of Deacon's meters to ascertain leakage and quoted the opinions of Mr. Mansergh, Mr. Baldwin Latham and other eminent engineers in regard to the use of meters in domestic water supplies. He had, he said, kept an open mind on the subject and if the authorities insisted that they should try meters they must give them an opportunity particularly in those districts where waste took place.

Mr. Kabraji, while approving the motion thought it should cover defective fittings and taps. He proposed as a rider to be added that the Committee should report on the feasibility of fixing automatic or any better type of taps to stand pipes, etc., in the public streets.

At this stage there were cries of "vote, vote."

Mr. S. D. Khote seconded Mr. Kabraji's amendment.

Mr. Bomonjee Petit proposed the adjournment as it was five o'clock.

The motion for adjournment was negatived.

Mr. McDonald said he was known as an advocate for the meter system and he had been such since he came to think of it, though he did not think it likely that the meter system would be carried. He had read the reports of Mr. Tomlinson, Mr. Murzban and Mr. Bruce and had had long conversations with Mr. Bruce. He heard the statement made by the Hon. Mr. Mehta the other day which would have convinced a person with brains of wood if he wanted to be convinced. He had never been so satisfied with a statement as he had been with that of Mr. Mehta the other day. The fairness of it almost took his breath away, not because Mr. Mehta was not always fair but because it was against his own argument. He said he had a meter and at first his bill was for two lakhs of gallons of water, but with care this was reduced to 24,000 gallons. One statement of Mr. Mehta's was that it had never been the thought of the Committee to charge for the meters. But Mr. Harvey's idea was, though he modified a suggestion made by Mr. Murzban. He (Mr. McDonald) thought that if meters were introduced they would have to modify their price for water. They could not meter the whole City within fifteen or twenty years so the argument that the expense would be something horrible was done away with, because they would only have to put in a certain number in a year. He could see nothing wrong in Mr. Mehta's proposition except in reference to the appointment of a Municipal employer as the Special Officer to apply Deacon's meters to test the mains. He was quite ready to believe that every Municipal employe would be absolutely correct in the report he would make on the subject, but would they get people to believe that. They would say he was the mouth piece of this man or the other. He therefore suggested that the motion should be altered so that an outsider should be appointed and he would even go the length of asking Government to appoint a man for the purpose. In reference to Mr. Bruce he was quite well aware that he might look for the fragments of Mr. Bruce's skin over the Corporation Hall—metaphorically of course—but he was hardly prepared for so much as he heard. He admired the fairness with which Mr. Mehta put things though he did not go so far as did Mr. Mehta. He did not say Mr. Bruce was perfect, but he was an absolutely correct and able engineer. They could not get a better in the Presidency of Bombay. He was besides an absolutely upright man; they could not get one in the Presidency more so. (Hear, hear). It had been said that he hated the natives because he was one of those missionary men. That was the first time in 35 years he (Mr. McDonald) had heard such a charge brought against a missionary man. Mr. Bruce's cry was always the other kind. He told them that he loves the natives, he might not do so always (a laugh). What he did dislike was the crooked ways of the people and not the people themselves. He (Mr. McDonald) would recommend to Mr. Bruce that when he was going to apply the Deacon's meters he should have

somebody with him who would be able to give cooling drinks here and there in the hot weather as had been done before. But he was afraid Mr. Bruce would in no wise follow his advice.

Mr. Gamadia, moved and Mr. Hormusjee seconded the adjournment.

This being carried the President adjourned the meeting.

On 2nd August 1901, the Corporation resumed the discussion on the water question.

Haji Yusuf Haji Ismail moved an amendment of the original motion, deleting the words "That before proceeding to decide that the experimental measures recommended by the committee be taken in hand." He said this referred to that recommendation which had been the cause of all the agitation and orations of the Board.

Dr. Dinshaw Master admitted there was waste of water in the City by the people, and also by the Municipality, but the guilt, he contended, was greater on the part of the Municipality. Regarding domestic consumption, he measured the quantity of water he used for his morning bath, and he found that though he used it sparingly it amounted to twenty gallons. (Laughter.) The quantity used by Europeans for their morning tub would be about forty gallons. The question of deficient water-supply was one of long standing, and he believed the only remedy would be to duplicate the main from Tansa whether it cost fifty or sixty lakhs.

Mr. Jehangir B. Petit objected to the constitution of Mr. Mehta's Committee, and suggested other names. He contended that the arguments against meters were so weighty that they should not be introduced in the future, and they should place on record a denunciation of them to the effect that they shall not be adopted at any time. (Hear, hear, and laughter.) The London Water Companies decided not to adopt meters because they would reduce income (Mr. Mehta: Hear, hear). He asked if Mr. Mehta would accept the names he suggested for his Committee.

Mr. Mehta: Are you going to propose Mr. Sukhia?

Mr. J. B. Petit (feelingly); No, no. (loud laughter). He moved as further amendment to the motion that the report of the Water Committee be recorded with a pronounced denunciation of the meter experiment recommended therein, and a special officer be appointed to test the mains, etc.

Mr. Eknath Khote seconded the amendment.

Mr. Shroff said it had been carefully calculated that the cost of metering the whole city would be half a million sterling ("more"). The cost of laying an alternative main from Tansa was put down at half a million sterling. They could get that work done without imposing a single cent of additional taxation, Mr. Hormusjee had shown that they had been recovering a large amount of water tax during the last few years; something like 2 1-2 lakhs of water taxation more than they were entitled to.

The Hon. Mr. Ibrahim Rahimtula: May I say a word. We

have recovered 35 lakhs less than the expenditure on the Water Department during the last few years.

Mr. Shroff: That, Sir, is a matter of calculation, (Loud laughter). He contended there was no necessity for meters, and no absolute necessity for laying an additional pipe from Tansa for some years to come. As to how they were to meet the present difficulties, the question was whether they had an officer who would give them an equal distribution of water. The head of the Water Department was rather obstinate in his own views. From the commencement he took charge of his duties with a sort of prejudice ("No"). It was perfectly manifest from that famous letter which caused so much uproar in the City that he was not only cantankerous, and quarrelled on every side with the living but he was even quarrelling with the dead (Laughter). Mr. Bruce said that from the date of his appointment to his present post it was apparent to him that the defects existing in the design and construction of the water works which, unless remedied and counteracted, must result in an insufficient water supply. They knew what eminent men designed their water works, and here was an officer who had the courage to say that defects existed in the design and construction of the water works ("so they do"). Did that not prove that he quarrelled with the dead. (Laughter). It showed that he was a person who condemned everybody and everything. They should ask him whether, with the materials at his disposal, he was in a position to give an equal distribution of water in the City. If he said "no" then out of self-respect he should retire. All this hue and cry had arisen because of the whim of one person. There was no such hue and cry in the time of former officers. ("But there was.")

Mr. Aitken thought it would be well if somebody could invent a meter for recording oratory (Mr. Cuffe: And charge for it). He agreed with the Hon. Mr. Mehta about the want of light coming to them from most of the speeches made at the rate-payers' meeting and elsewhere. The one idea appeared to be that if they got meters they would pay more for the water. But he never heard anybody say that milk was dear in Bombay because "gowless" sold it by measurement. Meters had no connection whatever with the price to be paid for water. It was clear that meters must be the most absolutely just and economical way of distributing the water, because each man would then pay for exactly so much, as he used or wasted. It was pointed out by Mr. Rebsch that the rate at which water was now charged for the cost of water by meter would be heavier than it is, and that some proposal for reducing the rate for the water should accompany the introduction of meters. Mr. Santo Crimp told him (Mr. Aitken) that the waste of water from the stand pipes in Bombay was something fearful. But he didn't need an expert to tell him that. He referred to the weight of expert opinion in favour of meters and pointed out that Mr. Santo Crimp's was not opposed to the view of Mr. Tomlinson, Mr. Murzban, Mr. Snow and

Mr. Bruce. Mr. Santo Crimp said that meters were not necessary if certain other measures were adopted. Mr. Santo Crimp was not an expert on the manners and customs of the people of this country. He suggested an inspection staff, but let them imagine a staff of sepoys running up and down looking after running taps and imagine the harvest of four anna pieces they would secure. (laughter) In regard to the portion of the resolution referring to the reform and reorganisation of the Water Engineer's Department he suggested that it should be dropped. (Hear, hear.) It was possible there were two sides to the question, and the Corporation were not in a position to judge. It was exceedingly difficult for a man to do good work if every popular clamour raised against him was taken up, and if he had a hundred masters to serve. He had seen a letter from a former officer of the Municipality in which he said : I see Mr. Bruce is running the usual gauntlet. I know he will be as glad to get away from Bombay, as I was. They could guess who that officer was.

Sir Bhalechandra Krishna hoped Mr. Mehta would not withdraw the latter portion of the resolution, as that was the vital part of it. He agreed that Mr. Bruce was honest and upright, but discretion, sympathy, tact, and courtesy were also necessary in the head of a department. (Hear, hear). He was forced to say that Mr. Bruce in the administration of the Water Department had shown a great lack of these qualities. In sending that historical letter he condemned himself, for works had been sanctioned by the Corporation which had not been carried out.

Mr. Hormusjee and Mr. K. N. Wadia having spoken, the Hon. Mr. Mehta replied on the debate reiterating his opposition to the introduction of meters. In regard to the officer to be appointed to test the mains, etc., he withdrew the word "Municipal," as he saw it might be advisable to appoint an outsider. He also agreed to add Mr. Gamadea, Dr. Dadachanji, and Mr. Manmohandas Ramji to his proposed Committee.

Mr. J. B. Petit and Haji Yussef Haji Ismael then withdrew their amendments, and Mr. Mehta's motion with an addition by Mr. Hormusjee, was adopted.

The proposal by Mr. Kabraji to introduce automatic taps in stand-pipes and chawls and large buildings was rejected.

The following was the resolution adopted.

"That the report of the Committee appointed by Corporation Resolution No. 722, dated the 22nd April, 1901, on questions relating to the water supply in Bombay, be recorded. That before proceeding to decide that the experimental measures recommended by the Committee be taken in hand, the Corporation think it desirable that an Officer specially chosen by the Municipal Commissioner in consultation with the Executive Engineer, be deputed to ascertain, by all possible means, the quantity of water actually brought into the City, and also to ascertain, by application of Deacon's meters and all other

available means, the amount of waste occurring through leakage from the mains and reservoirs and the amount of consumption or waste of water of all sorts which takes place except such as takes place, after reaching house pipes. The Special Officer should report to the Commissioner through the Executive Engineer the results arrived at by him, and the Commissioner should be requested to submit the report with his own remarks to the Corporation.

“ That the Commissioner be requested to instruct the Special Officer to work in consultation with a Committee who should be requested to carefully observe his work and report thereon to the Corporation.

“ That the Corporation desire that the following works, which are considered necessary for carrying Tansa Water direct to the Malabar Hill and Bhandarwada Reservoirs, should be taken up and prosecuted as quickly as possible, the cost being met as recommended in Standing Committee's Resolutions No. 6311, dated the 4th October 1899, and No. 7768, dated the 8th November, 1899 :

	Rs.
Main along Kala Chowkey Road from Parel Road to Ghorupdeo and along Reay Road to Bhandarwada Reservoir of 18-inches diameter except for 600 feet for which 24-inches cast iron pipes in stock are to be used. The 18-inches to be cast iron for half the distance and steel for the other half. The main to have an emergency connection with the 48-inches Bhandarwada outlet	1,40,200
9-inches service main connected at one end with Bhandarwada Reservoir and at the other with the Sewree Road 12-inches main and supplemented by a 9-inches main in Connaught Road connected with the 16-inches main in Parel Road	51,150
22-inches steel main from the 48-inches Tansa main at Chinchpokli to Grant Road, there connecting with existing 27-inches and continued to Malabar Hill with 32-inches steel main ...	2,07,300
32-inches steel outlet main, Malabar Hill to Chowpati	32,150
15-inch main from 24-inch Vehar main at Parel Bhoiwada to Parbadevi Road, and 9-inch thence to Century Mill at a cost of	55,750 a
	<hr/> 76,580 b
10-inch and 9-inch main in Grant Road to enable Kamatipoora to be supplied from Bhandarwada at a cost of	14,100
9-inch main in Tardeo Road from Forjett Road to Falkland Road, for the supply to mills in the vicinity at a cost of	9,300

Total ... 5,09,950
or 5,30,780 c

a If of steel.

b If of cast iron,

c If the 15-inch Main from 24-inch Vehar Main is to be made of cast iron.

“That the Commissioner be requested to submit at an early date the plans and estimates for additional filtering accommodation promised in his letter No. 6892, dated the 14th June 1901 together with proposals for meeting the cost of the additional filter beds.

“That the Commissioner’s letters No. 7370, dated the 19th June 1901 and No. 9705, dated the 10th July 1901, with accompaniments be recorded, and the Commissioner be informed that the Corporation are of opinion that the distribution of water in the City is of a character to justify in a great measure the loud and recurring complaints which are made by the ratepayers, and that, if the existing Water Department is unable to devise measures to remove these complaints, the Commissioner should proceed to take steps to reform and reorganize it.”

The following was the addendum by Mr. Hormusji “that the Commissioner be requested to prepare and submit to the Corporation at his early convenience a scheme for an efficient staff for a systematic and periodical survey of the mains and pipes so as to detect leakage and to remedy and stop waste of water.”

Water supply to Kurla Municipality.

In 1893 the Corporation agreed to supply water to the Kurla Municipality in accordance with an agreement, copy of which is no doubt in the Chief Accountant’s Office.

Water supply to Bandora Municipality.

In 1897 a proposal was made to charge the Bandora Municipality for the water supplied by meter measurement to stand pipes in the Segregation Camps and Plague Hospitals in Bandora, for 3 months, at Re. 1 each per stand pipe. This was agreed to.

Water supply to Santa Cruz and Thana.

On 1st February 1900, the Corporation adopted the Committee’s report recommending the supply of water to Santa Cruz.

On 9th October 1899, the Corporation agreed to supply water to the Thana Municipality at the rate of 12 annas per 1,000 gallons and on certain conditions.

Water supply to Andheri.

On 28th January 1897, the Corporation authorised the Municipal Commissioner to lay a 3-inch main with stand-pipe and trough at Andheri at Mr. Nusserwanji Jehangir Wadia’s cost as proposed in Mr. Snow’s letter No. 22731 provided the Collector of Thana through his District Board agreed to recover the water rates on behalf of the Bombay Municipality, namely, at 8 annas per 1,000 gallons for water supplied to the stand-pipe and at 12 annas per 1,000 gallons for the water supplied to the owners of private bungalows and properties. This arrangement was for a period of 5 years.

CENSUS OF BOMBAY.

The population in 1667 was estimated to be 10,000.

Census of
1667.

A census is mentioned as having been taken in the year 1716, giving only sixteen thousand persons, but it probably embraced only the Fort and a portion of the Island.

Census of
1716.

A census, taken in the year 1814-15, of which the record is imperfect, gave 11,000 as the population of the Fort, and 2,21,550 as that of the whole Island, and 20,786 as the number of houses. The British, Military, Marine and Civil were stated to be 4,300 persons, the resident native Christians and Jews 12,300, the Moosulmans 28,000, the Hindus 1,03,800, and the Parsees 13,150. The floating portion of the population was given as 60,000. This census is quoted in Hamilton's Gazetteer.

Census of
1814-15.

In the year 1833-34 another numbering of the people was undertaken, but after it had continued nearly twelve months the only result reported was, that during that time 1,17,016 adults had been counted. The Senior Magistrate of Police, under whose direction the census was taken, added to the number of adults an equal number for the children, and reported 2,34,032 as the probable total population.

Census of
1833-34.

Between the years 1844 and 1848, Government had several times under consideration how to obtain an accurate return of the population, and in 1849 accepted the offer of the Superintendent of Police to furnish it. The money and establishment at the disposal of that officer were altogether inadequate, and his attempt ended in failure; the tables were however published in the *Government Gazette* of 10th January 1850. Two more attempts were made in the year 1851, but with no better success; the results of these were not printed.

Census of
1844-48 and
of 1851.

On Sir Bartle Frere's entering on the Government of this Presidency in 1862 His Excellency caused a Census Act to be brought before the Local Legislative Council. This Act, rendering it obligatory on house-holders to give correctly the required information, was approved of and sanctioned by the Government of India. The educated part of the native community warmly supported the measure, and advocated it in their various spheres of influence among their countrymen; and, to increase the intelligent co-operation of the heads of the community, the Governor assembled the Native Justices of the Peace, and explained how the knowledge of the people, that is sought for in a Census, conduces to good government and to sanitary social improvement. The leading members of the different sections of the community had meetings, and after having conferred together, they issued explanatory circulars in their different languages, and called on all to give their active aid to the enumerators. Mr. Dosabhoy Framjee Karaka circulated, at his own expense, two thousand copies of a pamphlet, in which he explained the objects and uses of a Census, and the methods of taking it that have been followed in different countries.

Instructions having been given by the Government to the Commissioner of Police, he was left to carry out the appointed measures. He was to be allowed the aid of such clerks as could be spared from the Government Offices for the day of the Census, and the rest of the enumerators were to be hired for the work.

A few men were at first engaged to ascertain the probable number of schedules that would be required in the various languages in use, and also to estimate how many lists would probably be filled in by the house-holders, and how many would be left to the enumerators to fill in. When this inquiry had proceeded for some days it was found that the work was of greater magnitude than had been anticipated. The number of men engaged in this preliminary inquiry had repeatedly to be added to, and serious inconvenience was experienced in methodizing the work from many of the streets and lanes being unnamed, and nearly all the houses being unnumbered, as the assessment numbers were few and irregular, and they were nearly useless for registration purposes.

On the eve of the intended distribution, a communication was received to the purport that the Act had been disallowed by Her Majesty's Government in England. The Governor of Bombay (and this is most interesting), having met with cordial support from the Native community, and having every assurance that the people were not only willing, but that the leading and educated part of them was very desirous to have a Census taken, the work was allowed to proceed without the sanction of penalties.

There were altogether 921 persons engaged in the enumeration on land; of these, 148 were employed as Superintendents of Districts, and 773 as visitors and enumerators. Of the whole number 331 wrote in English, 147 in Gujarati, 423 in Marathi and 20 in Hindustani. Besides these there were other 70 enumerators employed in the Harbour. Thus for a registered population of 8,16,562, there were 843 enumerators, or one for every 968 individuals, concerning each of whom there were seven points of information to note, after questioning and perhaps cross-questioning the unwilling and stupid, to elicit the truth.

Owing to so many of the enumerators being lent or engaged for one day only, instead of all having to perform, each in his own district, the distribution, the collecting, and the scrutiny of the house-holders' lists, great trouble and delay was experienced in gathering in the schedules and correcting them. Had it not been for the note on the back of each return showing the number of the families in the house to whom census papers were given, many lists would have been lost, as some houses were inhabited by many families. In one instance fifty schedules had been left in one tenement, and only twenty-six were spontaneously returned, but on making the scrutiny the deficiency was detected through the note on the back of those received and the remainder were recovered.

In 1662, the population was 10,000 while in 1716 it was 16,000, a hundred years later it was 2,21,550 and in 1901 it was 7,70,843.

Census of
1716, & 1901.

Old Bombay.

Dr. Weir in one of his reports publishes the following notes about old Bombay which was furnished by Dr. Gerson DaCunha :—

“ There is a certain historical appositeness in the notes being written by a *savant* of the ancient name of Da-Cunha :—

“ To form a correct idea of the development and growth of Bombay one must study its conditions from the earliest historical times, which may be divided into three periods, *viz.*, Hindu, Mahomadan and Portuguese, followed by the modern one, which is British.

“ The Hindu period from the early dawn of history to the conquest of this part of the Western Coast, including Bombay, by the Mahomadans is mostly made up of legends, tales and traditions founded on more or less authentic sources. This is a history of the gods, temples and villages, each bearing its own name, which names by process of time have in some instances been rendered meaningless, while in others they can be traced back to their original sense. These Hindu-chronicles do not give us any indication of the trade or population of Bombay, but it is presumable that a place with so many and important temples having their own *Mahâtmyas*, or panegyrics, written either in Sanscrit or in Prakrit, such as Walkeshwar, Mumbadevi, Kalbadevi, Mahalakshmi, and so on, may have had a fair amount of population, and a state of civilization generally met with in towns resorted to by pilgrims from distant parts to perform religious rites at their shrines.

“ In the early centuries of our era, it appears that Bombay, with the adjacent country, belonged to the Rashtrakuta Kings of the Deccan. Later on it belonged to local chieftains or naiks, tributary to more powerful Princes of the Deccan, who were also masters of the North Konkan.

“ Of the Mahomadan period, Bombay has retained still fewer monuments than of the Hindu period. At the close of the 13th century, Bombay and Mahim were under Bhimdeo, from whom it was taken by the Mahomadans. These latter have left the vestiges of their rule more at Mahim than at Bombay. They are probably the Forts

of Mahim and of Bombay,—this at the place where the Arsenal or Castle is now,—and the mosques and tombs of *Pirs* at Mahim.

“Although it cannot be said, as some suppose, that Bombay really had no history before the Portuguese occupation, the annals of the latter are fuller in detail than those of both the Hindus and Mahomadans.

“To pass on, then, to the Portuguese period of the Bombay history, the first fact recorded by the chroniclers of that nation is the occupation of the place as early as 1527, after the defeat of the fleet, in the Bombay harbour belonging to the King of Cambay, during the Governorship of Lopo Vas de Sampaio. In January 1531 the Viceroy Nuno de Cunha selected the island of Bombay for the rendezvous of his formidable expedition to Diu, holding there a grand review of his troops.

“It seems that the island of Bombay was not such a rocky, barren place as it is generally represented to have been then. Soon after the acquisition of the island the Portuguese, the soldiers of Heitor da Silveira, gave it the name of *Ailha da boa vida*, or, ‘the island of the good life,’ from the pleasant days they spent there, which designation was correct till the middle of the sixteen century, as stated by D. Joas de Castro in his *Roteiro de Goa a Diu*, p. 81. At last the native name of Mumbae, ultimately changed into Bombay, after passing through the Portuguese stages of Mumbaim and Bombaim, prevailed. About the middle of the sixteenth century, the island of Bombay was granted in perpetuity, paying a yearly quit-rent, to Dr. Gareia d’Orta, author of a work on Indian drugs printed for the first time at a missionary press in Goa in 1563.

“On the conquest of Bassein and the districts around by the Viceroy Nuno da Cunha in 1533, Bombay formed one of the eight divisions into which the province of Bassein was divided.

“Bombay was divided, for a better land administration like other districts, into several villages, the name of Bombay being confined to that narrow part of the island which extends from the Apollo Bunder to Mahaluxmi and from Girgaum to Oomerkadi. The other villages were Mazagon, Mahim, Parel, Warlee and Sion.

“ The early documents from the time of the conquest in 1533 to 1550 refer to Bombay in this narrow sense. This Bombay proper was rented to certain individuals for an annual rent, varying from year to year, excluding the revenue derived from the Walkeshwar custom house, which was farmed to a Hindu by name Posagy.

“ In 1548 Bombay was rented to one Mestee Diogo for 1,432½ *pardaos*, which arrangement probably lasted till 1550. It was the system of the Viceroy D. Joao de Castro and of his immediate successors to reward the services of distinguished Portuguese Officers by granting them lands in perpetuity on the payment of yearly quit-rent.

“ From 1550 it seems that the island of Bombay was granted to Dr. Garcia d’Orta on the condition of his paying the above-mentioned quit-rent. What those *pardaos* are now equivalent to is rather difficult to say. The value of this coin has varied considerably from the earliest times of the Portuguese rule in India. In old times by *pardao* was meant a gold *pratapā* or *hūn*, equivalent to a gold pagoda of 3½ rupees; while the modern *pardao* is worth only half a rupee. The Bombay rent in *pardaos* was most probably in gold coins. Dr. Garcia d’Orta lived in India from 1534 to 1572. He was granted the Island of Bombay in 1550 and was its proprietor up to 1572. He mentions Bombay three times in his work under the name of Bombaim and Mombaim, as well as his tenant Simao Toscano, who sent him mangoes from a tree which had fallen into the habit of flowering and fruiting twice yearly. There is no record of Dr. Garcia having left any descendant in India, although Cardinal Saraiva mentions the names of both Garcia d’Orta and of Nicholan d’Orta without saying a word about their relation to each other. The latter is said to have gone from Goa overland to Madrid in 1606 and returned to India by the command of King D. Filippe II of Portugal and III of Spain. From want of succession the Island then appears to have relapsed.

“ In 1634 we are told that behind the Fort, where now the Arsenal or Castle is, was a small thickly populated village under the lordship of the grantee, whose name, however, is not mentioned, and who had to provide for its defence. The proprietor of Bombay was called *vazador*. The population (of the castle) consisted of 11 Europeans, all

married and 59 natives able to carry arms. The Captain lived in the Fort, while a little behind it was a chapel and a house belonging to the order of the Augustinians. When the island was ceded to the British, the tradition current was the Governors lived in the same castle, while the chapel was converted in the course of time into what is now called the old Secretariat, the Augustinians going to the island of Coles or Colaba, which was not then included in the territory cession of Bombay. In that old Secretariat there began to live the Governors of Bombay until the beginning of this century, when they repaired the old church and convent of Franciscans (not Jesuits, as it is generally supposed) at Parel, where they changed their residence. Between the castle village, where the lord of the island was living, and old village of Cavel, where the native converts of the Portuguese missionaries were settled, was a vast cocoanut plantation, now the Esplanade, in the middle of which was a church now represented by a cross, and on the opposite side, close to the modern Elphinstone School, was its cemetery.

“The village of Cavel is of great antiquity ; it was there that a considerable amount of the *Rashtrakuta silver coins* were found.

“At the time of the cession of the Island to the English in 1661 the island of Bombay was owned by Donna Ignaz de Miranda, widow of D. Rodrigo de Mancato. She lost through the cession, dominion or the rights of a grantee she had over the island, but not the revenue she used to derive from her estates, which were eventually bought from her and her descendants by the East India Company, just as the village of Mazagon was bought from the Tavora family, and so on, at a later date.

“I need not mention the conditions of growth of Bombay after the cession. But an important Portuguese document of a later date, viz, 1727, give an accurate idea of what Bombay was then, and its value as land property. This inquiry about the value of the island was made with the view to buy it back by the Portuguese, owing to the repeated quarrels of the Bandora Jesuits with the Bombay English. This is the document :—Bombay had two towns, Bombay and Mahim, and eight villages, Mazagon, Warlee, Parel, Vadala, Naigaon, Matunga, Daravi, and Colaba. It had 7 hamlets—2 under Vadala,

2 under Daravi, and 3 under Parel. It had 5 Koli quarters—in Bombay, Mazagon, Warlee, Parel and Sion. There were 3 salt-pans—Kaim near Matunga, Sewree and Vadala. The estimated produce and revenue of the different parts of the island were: of the towns, Bombay 40,000 cocoa palms, some rice lands and old rice lands now built on, and Mahim 70,000 cocoa palms and 592 *mudas* of rice.

“In 1661 the island of Bombay (including Salsette and Tanna) was ceded by the King of Portugal to England. The cession arose out of the marriage of the King of England, Charles II., or the marriage was made the occasion of the cession; the Portuguese authorities were not willing to accept the treaty; with possibly a keener instinct of the value of the Island than those at a greater distance and in a far-of land, they were slow to allow them to pass out of their hands; negotiations were prolonged, and it was not till 1664 or 1665 that the English took possession of Bombay. In 1668 the King of England handed over the island to the Governor and Company of Merchants of London trading into the East Indies, for an annual rent of £ 10. There is one condition in the charter by which the East India Company obtained possession of this Island, of great interest in connection with the development of the civic privileges and the liberties of the citizens, and that condition is that ‘all persons born in Bombay were to be accounted natural subjects of England’; freedom of religion and of conscience was proclaimed, and a city founded by adventurous spirits became a refuge to adventurous fugitives. In liberty this city has grown, may the spirit of freedom ever animate its citizens !

“This, according to Fryer, was the condition of the English settlement in Bombay on the landing of the first Governor in 1664:—“ They found a pretty well-seated but ill fortified house, four brass guns being the whole defence of the island, unless a few chambers housed in small towers, convenient places to scour the Malabars, who heretofore have been more insolent than of late, adventuring not only to seize cattle, but depopulate whole villages by their outrages * * * About the house was a delicate garden voiced to be pleasantest in India.” This

is how Fryer found the Town:—"It is a full mile in length, the houses are low and thatched with oleas of the cocoa trees, all but a few the Portugals left, and some few the Company have built. The custom house and ware-houses are tiled or plastered, and instead of glass, panes of oyster shells are used for their windows;" and we are further told "the English have only a burying-place called 'Mendam's Point,' from the first man's name therein interred, where are some few tombs that make a pretty show at entering the Haven, but neither Church or Hospital, both which are mightily to be desired."

"The Husbhee of Jinjeera, who held the office of Admiral to the Emperor Aurunzeb, was a powerful foe of the English colony, and Bombay had been overawed by the forces of the Jinjeera sea-king: it is said that he held all Bombay outside the Castle for a year. He landed at Sewree in 1689, and the invasion caused the greatest consternation in the Island. Hostilities appear to have arisen through the English making war on the Mogul ships, and adventurous Englishmen roaming the seas plundering Indian commerce, and also partly through the prohibition at that early date to sell slaves in Bombay. This is what I read:—"The Sidi landed at Sewree on the night of the 14th February 1689 with 20,000 men, marched to Mazagon, took the Fort with all its ammunition and treasure, said to have been about £ 10,000, hoisted his flag there and made it his head-quarters."

"It was not till 1716 that the Governor, demanded the cession of the customs dues collected at Bandora, and the opening of the Tanna river to English trade, from the Portuguese. The two great English companies were united in 1702; but there were other bands of adventurous traders, or "interlopers," as they were then called, who bravely dared monopolists and sought to trade free; the account of one of these is too interesting to be omitted. We read—"An Association of Scotchmen had engaged in an effort to gain a share of the trade in India, but without that prudence and discretion for which their nation has been in other instances distinguished. They seem never to have had more than one ship, called the 'speed-well,' the captain of which was a notorious polygamist, who, having been brought up as a Highland drover, was little acquainted with the practice,

and still less with the science of navigation. At Batavia he permitted his ship to be driven on the rocks, where she became a total wreck, a small portion only of the cargo being saved." A good deal of cargo saved consisted of curious glass-ware, we are informed. This company soon disappeared and passed the way of other adventures.

"Although there is no record of any one having suffered death for religion in Bombay, poor witches—I suppose they were generally witches of malevolent disposition, who were tortured. The following curious instance of the conviction of a European witch is referred to in an article in the *Bombay Quarterly Review*. Near the Cathedral appears to have been considered the safest place to exercise the "devil;" this is the description of it:—"The records of the court of justice show that an ignorant woman, named Bastok, was more than once whipped for what was called 'diabolical practices.' Like too many Europeans of past days in India, this infatuated creature had imbibed superstitions, and professed to cure sick persons by the use of charmed rice. Convicted of this offence on the 5th of July 1724, she was admitted by the court to have been guilty of witch-craft, not from evil intention, but from ignorance, and so they enlighten her dark mind in this wise:—The court orders that 'she receive eleven lashes at the church-door and afterwards she and all persons that are found guilty of the like do such penance in the church as customary.'"

"A difficulty, and source of unpleasant odours which existed more than 200 years ago, still exists. Fish manure is a valuable but unsavoury product, and 200 years ago it was as much objected to, by those who did not use it, as it is now; epidemics were ascribed to the putrid smell from the fish manure, or "Koot" as it was then written, so that the practice was repeatedly prohibited and as often, on the petition of the cultivators, again permitted. In 1733, the Koonbees who cultivated the rice fields fled to salsette because they were restricted from using fish manure. On the 22nd February 1742 the Fazendars or free-holders offered Rs. 10,000 to Government, on condition that the prohibition against fish manure was removed; they represented that unless the prohibition was withdrawn they would be ruined;

Government were persuaded then. Fish manure was however, used afterwards and it is still used.

Fryer had a very unfavourable opinion of the climate, for he writes, after describing the "power and state of the President"—"I reckon they walk but in charnel houses the climate being extremely unhealthy, at first thought to be caused by Bulessleo—rotten fish, but though that be prohibited yet it continues as mortal" he estimated the population of the Island at about 60,000; in fact most of the Island at that time might, according to this traveller, be described as a number of rocks above water.

In 1708, three presidencies which were ruled by Governors in Council were created—*i.e.*, of Calcutta Presidency Madras and Bombay—each of which were independent of the others till a Governor General was appointed in 1773.

Creation of
Presidencies.

It would be interesting to learn that in 1799, a corps of Fencibles, 1000 strong, was raised. Mr. Forbes equipped and paid 50 men. This corps was placed on the fixed establishment of Bombay in 1803, and subsequently became the 9th Regiment of Native Infantry.

Corps of
Fencibles.

The Great Indian Peninsula Railway line to Tanna was opened in 1853. The Bhore Ghaut Railway incline was opened in 1863. A carriage road up the ghauts was opened in 1830. The Bombay Baroda and Central India Railway commenced extending their line to Bombay in 1864.

Opening of
Railway lines.

In 1773 Mr. Holford made a successful voyage up the Arabian gulf, and conducted the first English ships straight to Suez. In 1776, five English ships entered the harbour of Suez.

The following Government advertisement regarding communication with great Britain was published in 1797:—

"The Hon'ble Governor in Council having resolved to establish a regular monthly communication with Great Britain *via* Bassora, the public are hereby informed that private letters will be received for transmission at the office of the secretary to Government under the following regulations.

Communi-
cation with
Great Britain
in 1797.

(1) That no letter shall exceed in length four inches, in breadth two inches, nor be sealed with wax.

(2) That all letters, shall be sent to the Secretary to Government with a note specifying the writer, and with the writer's name signed under the address, to be countersigned by the Secretary, previous to deposit in the packet, as a warrant of permission.

(3) That Postage shall be paid on delivery of the letter at the rate of 10 rupees a single letter weighing $\frac{1}{4}$ of a rupee. Letters weighing $\frac{1}{2}$ a rupee Rs. 15, and for those weighing one rupee, Rs. 20.

(4) Two mails will be transmitted by each despatch, one of which is intended to be despatched *via* Aleppo, the other *via* Bagdad. Letters in duplicate will be placed in each packet, or if single at the discretion of the Secretary.

(5) No packet or letters are to be received by the Commander of the packets but through the prescribed channel, nor will any, except through the same channel, be forwarded by the residents at Bassora.

(6) The mails will be despatched from Bombay on the 1st day of every month, and the first despatch will be on the 1st January 1798.

Published by order of the Hon. the Governor in Council.

JOHN MORRIS,

Secretary."

Bombay castle 7th December 1797

Establish-
ment of Mail
Service to
England.

In 1838 a regular monthly communication between Bombay and England by the overland route was established.

The weekly mail service was established in 1869.

Slave Mar-
ket in Bom-
bay.

Slaves from Africa seem to have been bought and sold freely at Bombay, for a person named Niebuhr purchased a young catholic negro at Bombay, but gave him away before leaving India, for fear the Mussulmans in Persia and Turkey might accuse him of carrying off a Mohamedan boy.

Ladies in
Bombay in
1739.

The Bombay Quarterly Review of 1856 states, that at Bombay and the subordinate stations in 1739 there were little more than sixty covenanted servants, about twenty free merchants, twenty married ladies, and four to

eight widows and unmarried ladies, and never more than seven European children. The Naval and Military Officers of the Company were not included among covenanted servants.*

Malabar Hill is thus described by Dr. Fryer :—"On the other side of the great inlet to the sea is a great point abutting against old woman's Island and is called Malabar Hill, a rocky, woody mountain, yet sends forth long grass. At the top of the hill is a parsee tomb lately raised, on its declivity, towards the sea, the remains of a stupendous pagoda, near a tank of fresh water, which the Malabars visit it most for." *

Malabar
Hill in 1673.

The growth of Bombay City can better be imagined than described, and only those who have been residents can tell how wonderfully the City has improved. In the twentieth Century and during part of the Nineteenth Century; Bombay was known as "the City of Bombay." Prior to that, it was the Town and Island of Bombay, but the building of a causeway on the northern outskirts makes it no longer an Island. Over a hundred years ago, the City was designated "within the walls" and "without the walls."

Houses in
Bombay.

Turning to the record of 1794, I find that there were 988 houses, within the walls and 6,659 houses, without the walls. The greater portion of the City was then under water. In that year there were only 430 Oarts and Gardens and Batty Ground. The Assessment of these properties at five per cent. amounted to Rs. 28,265-1-20 reas.

A hundred years later *i. e.* in 1894, the number of House property &c., liable to Municipal Assessment increased to 52,148 and their rateable value amounted to Rs. 2,72,98,360. The General Tax thereon, which was formerly known as the House Tax, is Rs. 18,58,710 per Annum.

At high tide Bombay was a collection of Islets and at low tide a pestilential swamp studded with eminences, but by the judicious construction of embankments and break waters to shut out the sea (the first of which *viz.*, Hornby Vellard was constructed during the time of Governor Hornby) and by the construction of roads across

Hornby
Vellard—con-
struction of.

* Notes on Bombay.

what had hitherto been marsh land (the first of which Grant Road constructed in 1835) and by the gradual reclamation of the low lying lands, the sea was excluded and the Islets united together at their bases, thus a mass of land was formed containing an area slightly in excess at 22 square miles. It is an Island or rather a Peninsula connected with the mainland by two causeways and two lines of Railway.

Town Boundaries.

In 1794, Lieut. John Cunliffe, Civil Architect, was directed by order of the Hon'ble George Dick, Governor to set up large stones in certain places to serve as a boundary for the Town of Bombay. They appeared about 18 inches above the Terrepain and had cut on them "Limits of the Town of Bombay."

In 1813, Government issued a proclamation reducing the limits of the Town to the walls of the Fort. Statute 33 Geo. III chapter 52 authorised the issue of such a proclamation. It is evident that the intention of the Legislature was that when once a proclamation was issued defining the limits of the Town, another one could not issue reducing the limits. The proclamation of 1813, being a second one, the Justices refused to acquiesce in the construction of the Act, and continued without interruption to levy their Assessment to the extent of two miles from the Fort which they considered to be the undoubted limits of the Town and without reference to the proclamation of 1813; the Bench having been legally advised that the functions of the Governor in Council as to fixing the limits of the Town under the 33rd of the King had been exhausted when they originally marked out the said limits. Subsequently Government agreed with this view of the Bench.

A writer, two hundred years ago, when describing Bombay, states "the Unhealthness of the water bore a just proportion to the scarcity and meanness of the diet" and another adds "out of every 500 Europeans who came to live on the Island not 100 left it."

Health and Condition of Bombay.

The following extract from "A Voyage to Surat" in the year 1689 by Mr. T. Ovington M.A., Chaplain to His Majesty, shows the condition of Bombay at that time:—

"Bombay is a small Island situate in about nineteen degrees of North Latitude, not eminent for anything so much as its Fort and Harbour.

"They have here abundance of cocoanuts, which bring some advantage to the owners, but very little either of corn or cattle but what is imported from the adjacent country, and these not in great plenty nor of very good growth. A sheep or two from *Surat* is an acceptable present to the best man upon the island, and the unhealthfulness of the water bears a just proportion to the scarcity and meanness of the diet, and both of them, together with a bad air, make a sudden end to many a poor sailor and soldier, who pay their lives for hopes of a livelihood. Indeed, whether it be that the air stagnates (for the land towards the Fort lies very low), or the stinking of the fish which was used to be applied to the roots of the trees instead of dung, or whatever other cause it is which renders it so very unhealthful, 'tis certainly a mortal enemy to the lives of the *Europeans*. And as the ancients gave the epithet of *Fortunate* to some islands in the West, because of their delightfulness and health, so the modern may, in opposition to them, denominate this the *Unfortunate* one in the East, because of the antipathy it bears to those two qualities.

"We arrived here at the beginning of the rains, and buried of the twenty-four passengers which we brought with us, above twenty, before they were ended, and of our own ship's company above fifteen: and had we stayed till the end of the next month, *October*, the rest would have undergone a very hazardous fate, which by a kind Providence ordering our ship for *Surat's* River-mouth, was comfortably avoided. A fortunate escape, indeed! because neither the Commander nor myself were in any hopes of surviving many days; neither temperance, the most sovereign medicine, nor the safest prescriptions in the physical art, could restore the weakness of our languishing decayed natures. And that which thoroughly confirmed to us the unhealthfulness of the place we had lately loosed from was the sudden desertion of our diseases, and return of health, before half the voyage to *Surat*, was finished; in the middle of which passage we manifestly perceived in our bodies as evident an alteration and change of air for the best, as our palates could distinguish betwixt the taste of wine and that of water.

"The Deputy Governor, Mr. *George Cook*, a pleasant and obliging gentleman, solicited me, upon the account of my function, to reside with him upon *Bombay*, and invited me, with all the proposals of a frank and generous civility, to wave my voyage and continue with him there, because they were then destitute of a minister. And indeed the deference I bore to such kind expressions, and to the duty of my calling were invincible arguments for my stay, had I not been satisfied of the immediate infallible sad fate I was under, like that of my predecessors, one

of whom was interred a fortnight before this time, and three or four more had been buried the preceding years, which common fatality has created a proverb among the English there, that *two munsouns are the age of a man*. This is much lamented by the *East India Company*, and puts them upon great expenses for supplying the island with fresh men in the room, of those that are taken away, and providing able surgeons, furnished with drugs and chests from *Europe*, to take care of the infirmaries and all that are sick * * * *

“The prodigious growth of vermin and of venomous creatures, at the time of the *munsons*, do abundantly likewise demonstrate the malignant corruption of the air, and the natural cause of its direful effects upon the *Europeans*; for spiders here increase their bulk to the largeness of a man’s thumb, and toads are not of a much less size than a small duck; whereby it is easily seen by these venomous creatures, what encouragement these infectious and pestilential qualities meet with in this place, and under what a contagious influence all the inhabitants must consequently be seated. This induced a gentleman one time in the Governour’s and my company, and some other persons of note, to affirm that he believed it rained frogs, because he espied upon his hat small frogs about the bigness of the end of one’s finger when he was at a great distance from any house or covering from whence they might drop.

“All wounds and contusions in the flesh are likewise very rarely healed here; and if they are, its with difficulty and extraordinary care; they happen generally to be very dangerous, and the cure admits of more delays and hazards in the healing than what is usual in other parts. But the corruption of the air has a more visible and immediate effect upon young *English* infants whose tender spirits are less able to resist its impressions, so that not one of twenty of them live to any maturity, or even beyond their infant days. Were it otherwise, the island might in time be peopled with the *Europeans* transmitted thither, as the Western Islands are, which belong to the Crown of *England*.”

Health statistics.

In 1862, the preponderance of deaths in the 1st and 4th Quarters and the excess of male deaths at these periods began to attract attention. It was attributed to the increase and fluctuation of the population arising out of the progressive and rapid commercial development of the City. That it was rightly attributable to the influx of labouring classes the statistics of that time prove very clearly. In that year, the Superintendent of Mortuary Returns, as he was then called, Dr. Haines, began to observe the effect of the industrial enterprise and speculation on the mortality. Speaking of the mortality of 1862, he said:—“In the deaths after births the propor-

tion of the sexes has been 130·8 males to 100 females, which is, with one exception, that of 1849, a greater disproportion than has yet been recorded. Though with considerable fluctuation, the excess of male deaths has been on the whole gradually rising of late years. This has been before remarked and attributed to the increasing influx of labourers and others, drawn to the place by its progressive commercial development. That this is indeed the case would appear by the fact, that the proportion borne to the total mortality by that which falls under the ages of the greatest bodily activity, say from 15 to 55 is in Bombay excessively large." Dr. Haines then proceeds to examine the deaths in each quarter, and he gives a table shewing the number of males to 100 females that died at all ages during the ten years from 1853 to 1863 inclusive.

The mean of the ten years is:—

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Mean of total period.
123·8	120·0	121·7	135·6	125·1

Mortality
in 1863 as
compared to
1853.

The proportion of male to female deaths in 1862 was:—

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Mean of total period.
138·4	127·8	120·6	136·4	130·8

In 1863 the full effect of the increased commercial activity had begun to be felt. The mortality during that year was the largest that has been recorded in Bombay, and nearly one third in excess of the average of the previous ten years. The deaths from cholera were 50 per cent. in excess of the average; the mortality from small pox and measles was nearly twice the average. Under the head of fever were returned 9499 deaths being the largest number ever before registered. A great mortality of young children was observed and the deaths from debility were unusually numerous.

Fever mori-
tality.

Mortality
among child-
ren.

Writing of the great sickness Dr. Haines observes:—"The mortality from epidemic diseases is subject to great fluctuations from year to year and from month to month, so that the increase in the deaths from these causes in the past year is nothing surprising. But the deaths registered under the head of fever hitherto have been remarkably constant in number not only in the several years, but from month to month. During all the previous ten years the highest number was 8458 and the lowest 6231, the first 1329 or 18·7 per cent. above, the last only 898 or 14·4 per cent. below the average."

Mortality
from Epide-
mic Diseases.

Again speaking of the mortality Dr. Haines states :—

“It is sufficiently obvious from the figures in these tables that the state of the public health in this town is in the highest degree unsatisfactory. Causes fatally contributing to this result—squalid filth within doors and without, deficient arrangements for scavenging and conservancy and imperfect Drainage—have been amply exposed in the later Sanitary Report of Dr. Leith. But without at all disparaging the estimate formed of the evil effects on the public health of an atmosphere charged with the noxious effluvia arising from all these sources, it is unquestionable that these effects must be seriously enhanced by the low state of vitality of the mass of the population, caused by the difficulty of procuring sufficient and wholesome food, and especially by their breathing for ten or twelve hours out of the twenty-four the stifling atmosphere of their narrow and crowded chambers loaded with animal exhalations.”

Large as the number of deaths in 1863, there were 27·63 per cent. more in 1864; the deaths in 1864, were 58·9 per cent. above the mean of the previous ten years. 4,588 deaths, nearly $\frac{1}{3}$ th of the whole, were due to cholera. The mortality from cholera exceeded the average of the preceding ten years by 129·3 per cent.

But among all the causes of death, the most striking numerical result is under the head of fever.

Fever mortality of 1864-65.

In 1865, the sickness that had been afflicting the city acquired its direct intensity. 9·11 per cent. more deaths than in 1864 and 65·59 per cent. above the mean of the preceding ten years were registered. 18,243 deaths, 65·39 per cent. of the total mortality was due to fever. Dr. Johnstone, the compiler of the report for 1865, thus refers to the mortality from fevers. “Fever appeared to have kept pace with the known influx of the laboring classes of both sexes during the years 1863, 64 and 65, in which there can be little doubt but that overcrowding had been gradually extending and that hard labour with exposure, vitiated air of crowded dormitories—in many cases a want of nutritious food, and high wages with consequent dissipation, were engendering their well known evils among the poor and badly bestowed classes of the community.”

In 1874, an unusually healthy year, the deaths from Cholera were 20. There were more deaths amongst Marathas than in 1868, 1871, or 1873, although the mortality of the whole population was slightly less than in those years. In 1875, Cholera was prevalent, and although more Marathas died than in 1872, the total mortality was slightly less. In 1876, with the reduction in the number of deaths of Marathas there was an increase in the total number of deaths.

In the Census report of 1872, the state of the city in these years, is thus referred to :—

“ The city was literally crammed with men, women and children for whom there was not sufficient house accommodation, and the consequent overcrowding of a great part of the people was excessive.”

Over Crowd-
ing of Bom-
bay.

Dr. Leith gives the following instance that he witnessed during his inspection of the town at the time of the Census of 1864. “ In a lane 9 feet wide the houses on each side were of two or of three floors and the various rooms were densely peopled, and the floors of the Verandahs were fully occupied while to eke out the accommodation in some of the Verandahs there were “ Charpays ” or cots slung up and screwed with old matting to form a second tier of sleeping places for labourers that were employed in the day time at the railway terminus or elsewhere. But when the crash came and Company after Company collapsed, the labourers that had been engaged in reclamation and other works were discharged, and finding no further employment returned to their Villages in the interior. It became therefore evident to all but especially to those whose avocations called them into labour quarters of the town that a decrease in the population had taken place, and that the figures as shown in the Census Report of 1864 no longer gave a trustworthy approximation to the numbers of the inhabitants. The migration of the labouring classes was necessarily followed by a diminution in the number of deaths, and that diminution was the greater inasmuch as the labouring classes were the worst lives of the population. The increased fatality of fevers of 1871-72 was due to the same causes as in 1865 and 1866 but on a smaller scale. It was caused by the

increase of the population through the number of labourers and others attracted by the new works that were going on. The same influences that proved fatal to the crowd of labourers attracted here in 1864-65, proved fatal to the labourers that had collected in 1871-1872. On referring to the deaths from fevers from 1865 to 1876 it is found that the increased mortality from fevers in 1871 and 1872, almost entirely affected Hindoos and Mussulmans, and that there was positively a less death rate in these years from fevers in the Parsee and European Communities than in 1868, the year in which the greatest quantity of garbage was removed. The health of the Parsees and European races in 1871 and 1872, did not appear to sympathise with the revival of fevers amongst Hindoos and Mussalmans, nor the Mussalman Community affected to the same extent as the Hindu. The special cause of the increased mortality from fevers amongst Hindus in those years was probably due to the influx of a number of the poorer classes of Hindu labourers.

Small-pox
in Bombay in
1872.

On the 22nd March 1872, the Health Officer (Dr. Hewlett) wrote to the Commissioner pointing out the prevalence of small-pox in the city and that it existed among almost every caste and in very nearly every district of the city. In twelve weeks there were 447 deaths. The total number of deaths from this disease in that year was 1854, which comprised of 859 Hindus of other caste, 454 Mussulmans, 167 Parsees, 8 Europeans &c.

Cholera.

Dr. T. S. Weir, Health Officer, wrote to the Municipal Commissioner on the 8th January 1889, to the following effect:—"I regret to inform you that there has been a severe outbreak of cholera at Ghorupdeo, in the locality and in some of the buildings in which an outbreak occurred while the description of Ghorupdeo at page 356 of the last Annual Report was being printed. There has also been an outbreak of cholera at Bhorebhat, where a previous outbreak occurred in the last year, the condition of the drainage of Bhorebhat being imperfect, open drains leading to cesspools. It is suggestive that there should now occur, as occurred in the past year, a number of cases of cholera in these two localities."

Total deaths from Cholera in Bombay
from the year 1849.

Years.	No. of deaths.	Years.	No. of deaths.
1849	2,269	1875	847
1850	4,729	1876	378
1851	4,020	1877	2,550
1852	1,135	1878	1,183
1853	1,139	1879	324
1854	3,353	1880	30
1855	1,739	1881	546
1856	2,151	1882	192
1857	1,741	1883	1,027
1858	105	1884	576
1859	2,265	1885	598
1860	1,687	1886	19
1861	1,251	1887	269
1862	2,634	1888	379
1863	2,742	1889	462
1864	4,588	1890	102
1865	2,537	1891	164
1866	332	1892	169
1867	111	1893	147
1868	227	1894	426
1869	754	1895	261
1870	386	1896	490
1871	263	1897	1,265
1872	190	1898	104
1873	95	1899	111
1874	20		

A report from the Health Officer on the effect of Mr. Haffkine's Anti Choleraic inoculations at Calcutta will be found on the proceedings of the Corporation of 14th August 1899.

Anti Choleraic
inoculation at
Calcutta.

Some interesting accounts of the Famine of 1877 is recounted by Dr. Weir in his Annual Report for that year. The discussion that ensued indicated the view the public took of the then crisis and it also throws some light on the misery which the refugees were reduced to.

The Famine
of 1877.

Col. Hancock said:—"It appears from Sir Frank Souter's report that there are nearly fourteen thousand able bodied persons come into Bombay, out of which 5269 are employed on different works. There are 8177 unemployed and homeless, all of whom are in want, some

in extreme want and in need of our assistance. It appears that the majority have come from the Collectorates of Sholapore, Poona and Sattara. Why they came here it is difficult to say. Some doubtless came in search of work at better wages than they can get in their own districts. Others came in the hope of being able to subsist without doing any work at all. Most of them must have been able bodied when they started or they would not have had strength to undertake the journey. But it is a fact that ought to be remembered that at the time they left their districts there was work for them on the relief works. They made a mistake in coming here, and the result is we have such pictures in the reports of abject misery, wretchedness, starvation and distress as I venture to say are unparalleled throughout the length and breadth of the famine districts where relief has been undertaken. Therefore I say it is clear that in coming to Bombay they made the greatest possible mistake. They have arrived exhausted and with what means they had also exhausted before they got to their journey's end, and they arrived here stricken with fever. However the matter we have to deal with is not why they came here, or whence they came, but what to do with them now that they are here. I think there can be no question whatever that it is the bounden duty of the municipality to assist them in every possible way. Probably there never were so many public works going on in Bombay since the days of the reclamation. It is for those who are able and willing to work to be brought to them. There is the Malabar Hill Reservoir, the Princes Dock, the Vihar outlet, and the Tulsi Reservoir. All these are now going on, as well as some great work on the G. I. P. Railway.

The chances are that able bodied men would find little difficulty in getting work and therefore our efforts should be directed to the relief of the 8,000 unemployed adults. I think it is evident from what we have heard to-day from the Health Officer and from Mr. Raghunath Narayen Khote, that it is not possible to deal with them by house to house visitation. They are overcrowded to a degree, and there is, we are told, no hospital accommodation. We should get them outside the town; on the flats or elsewhere. There we should get them in sheds

with a hospital attached and with proper people to look after them, to see to their feeding and cure them of their fever. Having made this unfortunate mistake of having come down here and starving on the way, what we must do is to get them on their legs again."

Mr. Maclean said "He thought it was a very probable statement of the reason why they came to Bombay, that they deemed Bombay a splendid place, having heard vague accounts of fellow villagers coming here and obtaining employment, and thought they could all do likewise. The gentlemen he had before referred to ascribed the great mortality amongst them, not to the influences of famine but simply to their terribly overcrowded state. He said—"the scenes I saw were loathsome and awful. Decency was impossible. Men, women and children, the sick and the healthy—all lay together. There was not a breath of fresh air possible to be got; the whole atmosphere was a stench of men and women and expiring oil butties."

Dr. Blaney observed—"I thought I would come to this discussion to day to take a part in it, having devoted some time to ascertain what is the real condition of things. In going through the city I have had to use Inspectors of the Health Department to show me some of the worst places, and I could hardly have believed there was so much misery and disease existing here. But speaking from a medical point of view, it is a fact that the fever that prevails is in these large houses which are so much overcrowded. Where there is any ventilation the number seems comparatively small. In one place I counted 42 persons all in a high burning fever. I saw a great number, too, in a low fever, and the overcrowding everywhere was fearful. I have no doubt that the chief cause of all, is overcrowding at this season of the year. That there is lots of evidence of the effects of famine, I do not doubt. There is the high shoulder bone in both sexes, the prominent ribs and emaciated form. The great question for this Council is: here we have an evil, and what is our duty in regard to it. Our duty, is I think, to see that the healthy state of the City does not suffer from this overcrowding and the disease consequent upon it. Now, you can do very little by feeding. In going round

the houses I was astonished to find that there were whole Maharatta, families who refused gratuities. They would rather suffer starvation than accept them. A great number of those who are sick are overcrowded and have no medical help. There is no doubt in my mind that if you segregate these people and give them free sun light, good ventilation and some medicine a great many lives will be saved. I saw in one room only eighteen inches high—yes, I repeat, only eighteen inches high—with a sloping ceiling to four feet only, with the tiles burning upon my head, there were two or three individuals stricken down with fever. I believe that the chief thing is to cure them of their fever. Now in the situation in which they are placed, overcrowded and ill ventilated, no medical treatment would be effective. There are lots of places where the grain is brought to them from the Relief Committee, but there is no body to grind it, and nobody to cook it. In the generality of such cases poor neighbours come in to cook it, and grind it for them. But I think that dry bajree cake and no medicine and being in a stifling room can only end in one thing—mortality; and I think with all feelings of humanity we ought to endorse Col. Hancock's proposal and adopt some means by which lives will be preserved, and we shall so preserve the health of the city."

On the 4th April 1877, the Corporation sanctioned a grant of Rs. 10,000 for the formation of sanitary camps.

Some of the speeches made on this occasion give a good idea of the crisis.

Mr. Grattan Geary said "I was on Sion Road last Sunday evening week, and I saw a group of people coming to Bombay in a most lamentable state. Had Dr. Blaney been with me, he would have been able to say whether they were then suffering from fever or not, but it seemed to me that they were suffering from illness; *they were not clear in their heads, they were staggering as they walked*, and it seemed to me, judging from what I had seen in a house to house visitation in the city, that they were labouring under the same kind of fever I saw there.

"It is satisfactory to know that this immigration is not continuing but I am greatly afraid there is reason to believe it may be resumed, and I quite agree with Mr. Maclean that it will never do to have anything like the

Poor Law system of relief in Bombay. We must clearly distinguish between those suffering from famine and those suffering from sickness consequent on the famine. We have the fourteen thousand people here from the Deccan in a deplorable state. Some few thousand have obtained work which they can hardly perform, but by far the larger number need help. Government has taken upon itself the duty of preserving life. I think they might go a little further than taking steps for "preventing death and severe suffering which are the official words used."

The erection of lines of sheds some thirty or forty feet apart on the open "Flats" was at once commenced. They were constructed of the lightest and cheapest material procurable, the walls of bamboo mat, the roofing, of the leaves of the date palm. Lying under mat screens stretched over bamboo poles, the sick had sufficient covering to protect them from the dew but scarcely against the sun, and they were well exposed to the bracing influence of the invigorating sea breeze.

The camp was ready for its tenants on Good Friday, and the Police assisted by the officers of the Health Department began to collect and take to it destitute, sick and hungry paupers from all quarters of the City. It was observed with astonishment the self respect, the piteous resignation of men and women sinking through the last stages of destitution; families were seen starving because they would not beg nor ask for alms, but we were wholly unprepared for the utter abhorrence with which the removal of the sick and the helpless was regarded. The sick were concealed, the destitute hid themselves, we were thwarted and opposed in all our efforts; the detestation of our doings expressed itself in a strike amongst thousands—some say ten thousand—labourers, the castemen and brethren in religion of those whom a great benevolence was trying to succour. The evil reputation of the hospital, appears to have been due to a combination of causes. The fear of entering a hospital, strong in the poorer classes of this city, is much intensified amongst the labourers born out of the Presidency town. Having a natural aversion to enter an Hospital, they began to view the refuge camp with abhorrence when they

found their was a possibility of their being taken to it forcibly and kept there against their wishes: of the camp itself horrible stories were circulated: almost underneath the ground on which it stood were hidden the bones of the cattle who died from rinderpest, and on either side were the great burying grounds of the city; to the simple but superstitious Hindu Peasant, thermometer and Stethoscope were but instruments of sorcery, the watchfulness and attention, the manipulations of the medical attendants the squeezing and tapping of their bodies, the minute inquiries, the earnest gazing into their faces and more especially at their tongues and the constant plying of pencil and note book in their presence excited in them a great wonder and amazement; they knew that in a certain room some of their number were taken, that here some of their blood extracted was mysteriously treated; rude people little accustomed to meet with kindly acts found themselves the object of an unceasing kindness and attention which to them was utterly unintelligible. Those who were well enough saw food and medicine given to the sick by christian hands; they saw christian hands dipped into their rice and milk and a horrible suspicion pervaded their minds, which soon began to be rumoured about and circulated through their countrymen outside that the Hospital was a temple in which if they were not sacrificed on the altar of scientific enquiry they were certain to be deprived of their caste and religion. These I believe to have been the causes, either combined or singly, which led to this curious demonstration for Bombay—a strike of the labourers on the harbour foreshore. From this time no one was taken to the hospital by force. Those who wished to go were assisted there. The indignation of the Maharattas was appeased.

Here are a few extracts from the "*Bombay Gazette*" narrative of a house on Nowroji Hill.

"On reaching the second floor I found myself in another passage of the same description as the one beneath, that is, crowded with people and opening into a number of airless, sunless dens called rooms. There women and children were packed together, some lying on the floor groaning or coughing badly, and some sitting up looking vacantly before them, their chin on their hands

and their elbows on their knees. A brown earthenware saucer, containing a small reddish light spluttering among oil, cast a strange glare throughout the place. Some of the doors in the passage were opened, when our presence became known, and a large number of people crushed into it. Some were old men leaning upon long staves, some haggard old women crying aloud that they and their families were hungry and had fever, and here and there between the principal figures appeared naked children."

This is what one of the inmates related of himself:—
 "Another old man (Tajeebhoy) volunteered his story. He had come from the Sholapur district with his mother (who was now lying at his feet stricken down with fever,) his wife and two children. They were all sick except one boy. For eight days past he and his family had been nearly starved. He would have died, if he had not gone into the big roads of Bombay and got a few pies by begging. He did not wait in Sholapore to see whether the Sircar could do anything for him or not. He left at once because he thought he would get good wages in Bombay. Many people left with him at the same time and he could not say why they had all left before waiting to see whether they could get food or employment from *Government*." Over 100 people lived in this house, and literally "pigged" in the passages, or in the rooms, which were quite as bad as passages. I looked into one room. Ten people were lying on the earthen floor, several of them groaning with fever. As I was proceeding down the ricketty staircase an old man cried after me. He wanted to know what I had done for his case? He then said his name was Bhow, that at the Dewallee he had come from Karmalla in Hyderabad territory, that he had walked all the way to Bombay together with his wife and four children. Poor Bhow had travelled as far as Tannah with ten bullocks and a mare—all his possessions. There he was compelled to leave six bullocks with a man who promised to look after them and feed them for 3 Rupees a month. He then journeyed on to Bombay with the remaining bullocks and the mare. The former he managed to sell for Rs. 10 or Rs. 12 each, and for the mare which was probably no fatter than Bhow's purse, when she

arrived in Bombay, he could not get more than Rs. 5. All his family had fallen sick with fever in Bombay and he had now spent all his money. The central passage was filled with people, many of whom were lying groaning on the mud floor. By the dim buttees of the place I could see anxious faces peeping through the half ajar doors. Here again I could see no window. Day and night each den must be dark, unventilated and unwholesome. The heat was almost intolerable.

The *Times of India* sent a special Commissioner, Mr. Curwen to report on the immigration. Here is an extract from it:—"Immigration from the famine district is so great now, and so steady, that unless the attention of the Government and the public be immediately called to the subject, the health of our City must suffer to an extent of which recent death rates, varying from 70 to 80 per 1,000, afford only a faint suggestion. On Wednesday the 23rd instant, no less than 1248 immigrants entered the City, of these about one-half came on foot. And this is not an exceptional day's record for probably each day this week will average as many as 1,200. When we consider that these people are so thoroughly exhausted from travel and starvation that not more than from three to four per cent. can be described as capable of able bodied labour; that there is no demand whatever for extra labour here; that many are already suffering from famine fever, and that nearly all are ripe for disease, we are compelled to foresee an epidemic, in which the great loss of life cannot be confined to the immigrants. We speak plainly; not as alarmists, but merely to urge the necessity of checking this dangerous movement by some means or other. We speak unselfishly without any thought of this or that famine policy, but simply in the interest of Bombay citizens. These unfortunate people are vagrant paupers to a degree undreamt of in England, and they must either be treated as paupers are treated here *i. e.* sent back to their Original Zillas, or Government must arm the officials with summary powers to seize them all as they come in—whether on foot, by rail, or by sea—and deport them to some large relief camp to be established well outside the limits of the City. One thing is certain, Bombay already contains more of these unfortunate people than is consistent with the health of the Town, and the

number is already so large as to render the efforts of private charity almost useless. In order that the public may realize what this daily inroad of 1,200 famine stricken people really means, we despatched one of our staff to spend the whole of Thursday in examining the people entering by Sion Causeway. His letter, though monotonous, will not, we think be found without interest, nor even without a sort of suggestive instruction.

“We encountered the first distinct evidence of the famine immigration movement as we passed the tank at Parell, beyond Government House, in the shape of a party of fifteen, who had walked from Phultan in the Zilla of Satara. Eight of these were children, two of whom might have been described as at the breast but that their mothers had no milk. They had been 15 days on the road, living on charity, and had been compelled to leave three of the party, who were too ill to walk further, at Tannah. They came to Bombay to look for food. We passed at intervals three stragglers from the famine districts, but rather to our astonishment, after what we had heard of the crowded state of the road found it almost deserted. When we reached the Causeway, the mystery was explained. The Police had stopped all the famine immigrants who came in after 7 the previous night and gathered them into a compound, and there they lay huddled together 178 in all.

“They complained most bitterly of the want of water for there is no main here and the only water to be had for drinking was the filthy water in the tank. We cross examined the people with some patience and care, but their stories were almost precisely similar to those we shall narrate hereafter. One party of four, weavers by trade, had come all the way from Mhow, because there was no work for weavers. In all this batch there was only one Mahomedan, though his caste is not so stated in the official list appended. From Vurgaum, close to Poona, came a party of 23 Mahars who had been sent away. Another party of 15 said they had taken 15 days coming from Poona. But we soon found that all the people had not the faintest possible idea of either time or distance. This failing I have noticed elsewhere among famine travellers. They also to a man maintained either,

that their application for relief work had been refused, or that they knew nothing at all of relief works. From 15th to the 21st instant inclusive 2,831 people from the famine districts have entered Bombay by the Sion Causeway. This means an average for the week of 400 per diem. But the numbers are increasing. On the 22nd 500 were booked, and on the 21st 637.

"From 10 a.m. to 2-30 p.m. they continued to pour over the bridge at the rate of 60 an hour, and any one of our readers who want to see the realities of a famine—without going to the districts—have only to spend an hour or two at midday at Sion Causeway. They all bore that indescribable famine look in their faces, which enables any one to distinguish them at once from the people round Bombay. So far as we saw they were not a score in all fit for able and remunerative work, and we only noticed six professional beggars. The others were patient to lethargy; and though one of our party gave a trifle now and then to the hungriest looking, none of the others pressed forward to beg. The children seemed to have suffered the most and were unnaturally pot bellied, with wasted little legs and large knees; but the men apparently have suffered more than the women. A medical man who was present ascertained by repeated enquiry that none of the nursing mothers had any milk for their little ones—indeed there were hardly any children under six months old—he also expressed an opinion that none of the women out of the crowd of nearly six hundred people we saw were pregnant. Very few indeed, perhaps 18 or 20 in all, had silver ornaments; and the great bulk of the travellers had parted with their cooking pots."

Famine
1899-1900.

In regard to the famine of 1899-1900 the Corporation on the motion of Dr. Viegas resolved to request the President to draw the attention of Government to the unsatisfactory nature of the arrangements made at Thana, for the detention of famine-stricken immigrants deported from the city to the relief works there, and that as a large number of the immigrants deported there had returned and were returning to the city, to request that Government would be pleased to adopt proper steps for the prevention of their coming back to Bombay.

A VILLAGE AFFECTED BY GUINEA WORM.

After the introduction of the Vehar water into Bombay. it was thought that Guinea Worms had disappeared from the City but in his Annual Report for 1881, Dr. Weir the Health Officer makes the following remarks :—

“The former notoriety of Matunga for guinea worm has been recalled to memory this year in the experience of one village, and unhappily only one village, by name Gowaree. This village has been dreadfully afflicted by this scourge; the villages on either side have been unafflicted. Gowaree draws its supply of drinking water from a well of muddy surface water about a mile to the East of the village; the villages on either side are supplied with Vehar Water. Gowaree has been smitten, the villages on either side have been exempt. The sanitary condition of Gowaree is the same (except in water supply) as the villages on either side; the most probable source of infection is the well water used by Gowaree Villagers. The villagers have begged for Vehar water. I inspected the village more than once; the condition of the people was pitiable; there are some 40 houses and some 297 inhabitants; of the 297 inhabitants 89 were suffering from guinea worm, and of the 40 houses people were suffering in most of the houses—a most distressing spectacle: one young woman with a child had 16 manifestations of filaria. These people were poor, their suffering increased the difficulties of life. The experience of this village recalls to mind descriptions of the condition of life from a sanitary point of view in years gone past in Matunga.”

JIGGERS.

Writing about Jiggers Dr. Weir states :—“Jiggers not hitherto known in Bombay, were imported. I find the accounts of observers in South America do not quite correspond with the descriptions in the text books. The proper name of the disease is, I believe, *chigoe*, and the flea burrows between the cuticle and true skin, not only of human beings but of animals. The *pulex penetrans*, to give the flea its right name, is about one twenty-fifth of an inch in length. It is popularly stated to burrow in order to lay its eggs, but the fact appears to be that the female burrows to die, except the abdominal section, which continues to feed the germs that afterwards become the eggs. It is different to the common flea, and has a sort of proboscis at its anal extremity.”

On 7th April 1899 the Health Officer wrote to the Physician in charge Goculdas Tejpal Hospital, requesting information as to the cases of Jigger admitted into the Hospital, and received the following reply :—" I have the honour to inform you that " 12 men were sent to this Hospital on the 14th ultimo by the " Port Health Officer, who reported them to be suffering from " Jigger ulcer. I have no personal knowledge of these cases, " but Lieut.-Col. W. G. Hume Henderson, I.M.S., Surgeon, " to the Goculdas Tejpal Hospital, reported on these cases as " follows :—

' Their illness would have been better described as the proba-
' ble result of irritation owing to the entrance of the female
' *pulex penetrans* and its consequent ovulation. A large
' percentage of the men were suffering from very extensive
' unhealthy ulcers which, if they were caused by Jigger at
' all, must have been caused by its entrance weeks or months
' ago. I made a careful examination of all the cases, and
' in only one could I detect anything resembling the irrita-
' tion caused by the recent entrance of the flea, and in this
' case nothing resembling the distended abdomen of the
' insect was detected.' " Out of the 12 cases, 10 have been
discharged from Hospital and 2 are remaining.

Return of births (Males and Females) in the
City from 1866 to 1899.

Years.	Males.	Females	Total.	Years.	Males.	Females.	Total.
1866	3,326	2,578	5,904	1884	7,634	7,003	14,637
1867	2,671	2,444	5,115	1885	7,762	7,202	14,964
1868	1,938	1,606	3,544	1886	7,772	7,137	14,909
1869	1,912	1,576	3,488	1887	7,992	7,437	15,429
1870	1,735	1,405	3,140	1888	8,669	8,091	16,760
1871	2,992	2,745	5,737	1889	8,064	7,429	15,493
1872	6,894	6,241	13,135	1890	7,965	7,603	15,568
1873	6,655	6,067	12,722	1891	7,964	7,554	15,518
1874	6,608	6,227	12,835	1892	8,045	7,440	15,485
1875	6,894	6,497	13,391	1893	7,875	7,343	15,218
1876	7,020	6,605	13,625	1894	7,828	7,230	15,058
1877	7,195	6,622	13,817	1895	8,150	7,534	15,684
1878	7,339	6,699	14,038	1896	8,267	7,623	15,890
1879	7,736	6,823	14,559	1897	4,903	4,433	9,336
1880	9,388	7,859	17,247	1898	5,640	5,144	10,784
1881	8,675	7,963	16,638	1899	5,661	4,963	10,624
1882	7,945	7,421	15,366				
1883	7,902	7,280	15,182				

Return showing the percentage of the mortality amongst
Europeans, Parsees &c., during a series of years.

YEARS.	Europeans.	Parsees.	Brahmins.	Mussalmans.
1863	36.72	18.96	.....	.....
1864	42.90	19.99	.....	.. ...
1865	57.27	21.50	.....	.....
1866	29.82	16.58	.....	.....
1867	25.67	17.07	.....	.....
1868	32.20	19.16	.....	.....
1869	29.35	18.82	.....	.....
1870	26.26	17.90	.....	.....
1871	31.25	20.04	.....	.....
1872	29.22	28.44	.....	.....
1873	24.54	21.97	.....	.....
1874	25.21	22.31	.....	.....
1875	32.53	24.08	.....	.....
1876	24.67	23.74	.....	.. ...
1877	30.03	23.04	29.93	45.26
1878	31.98	24.99	31.83	49.12
1879	24.84	20.45	27.99	41.57
1880	26.88	20.14	27.60	37.44
1881	22.77	20.10	19.05	31.05
1882	17.70	18.43	21.02	29.87
1883	19.94	22.96	23.06	34.53
1884	19.23	22.86	22.32	33.27
1885	19.23	20.43	24.69	32.02
1886	17.89	21.42	20.71	30.57
1887	17.22	20.47	20.85	31.74
1888	19.04	22.67	23.62	32.69
1889	20.66	22.88	24.98	35.20
1890	18.56	21.11	22.27	32.98
1891	18.60	23.28	23.66	38.29
1892	20.10	23.78	27.77	41.25
1893	18.63	22.27	23.56	37.23
1894	20.37	21.80	24.93	42.10
1895	20.81	22.94	25.72	39.30
1896	19.39	28.10	32.22	53.01
1897	18.77	32.61	38.72	72.77
1898	17.89	39.13	46.70	72.60
1899	16.47	34.89	45.52	73.21

MALTA FEVER.

During the year 1899-1900, the prevalence in many parts of the town of an indefinite type of fever was noticed. Col. Weir was of opinion that the fever exhibited symptoms of the type known as "Malta Fever" and this view was supported by the opinion of several local practitioners, under whose observation many of the cases came. The type of fever was different to that usually prevalent in Bombay, the duration of the fever was prolonged, there was great pain in the body, and the attack was not amenable to the usual treatment.

Statement showing the births and deaths in Bombay,
deaths from fevers, and also the rainfall.

185

YEAR.	Total births.	Total deaths.	Rainfall.	Total deaths from fever.
1848 .....	.....	10,051	73·51	4,859
1849 .....	.....	12,828	114·91	5,566
1850 .....	.....	15,137	50·33	5,555
1851 .....	.....	15,950	96·09	4,803
1852 .....	.....	14,022	69·26	5,913
1853 .....	.....	13,647	62·48	6,219
1854 .....	.....	17,541	82·13	8,219
1855 .....	.....	14,862	41·80	6,922
1856 .....	.....	14,761	65·93	7,281
1857 .....	.....	17,826	51·18	7,857
1858 .....	.....	14,342	61·45	7,508
1859 .....	.....	14,249	77·51	7,016
1860 .....	.....	14,409	61·60	6,226
1861 .....	.....	15,014	75·31	6,847
1862 .....	.....	15,809	74·00	6,979
1863 .....	.....	18,696	77·23	9,078
1864 .....	.....	25,015	45·96	12,593
1865 .....	.....	28,531	79·01	18,767
1866	5,904	16,865	79·34	9,870
1867	5,515	15,500	65·48	5,674
1868	3,544	15,702	63·77	5,481
1869	3,488	17,713	91·66	5,103
1870	3,140	14,888	66·21	4,745
1871	5,337	16,064	40·56	6,341
1872	13,135	18,990	76·48	7,512
1873	12,722	15,665	69·70	6,156
1874	12,835	15,496	82·18	5,403
1875	13,391	18,734	83·09	5,244
1876	13,626	20,783	50·04	5,867
1877	13,886	33,511	69·89	12,832
1878	14,038	26,999	113·90	9,944
1879	14,559	22,527	61·40	8,445
1880	17,247	21,146	67·94	7,513
1881	16,638	21,856	73·04	6,437
1882	15,366	20,468	69·23	5,453
1883	15,182	23,530	90·18	5,903
1884	14,637	22,542	62·19	6,830
1885	14,964	21,850	67·91	6,648
1886	14,909	20,074	99·74	5,820
1887	8,428	20,513	94·95	5,612
1888	16,760	22,421	55·97	6,642
1889	15,493	23,378	67·84	7,266
1890	15,568	20,534	65·18	6,489
1891	15,518	23,847	77·17	6,837
1892	15,485	26,518	95·12	7,751
1893	15,218	23,142	67·24	5,844
1894	15,058	27,230	66·85	6,458
1895	15,684	25,081	67·59	6,404
1896	15,890	33,451	87·65	8,776
1897	9,336	47,896	81·53	6,951
1898	10,784	51,961	74·09	4,114
1899	10,624	56,434	35·90	

MUNICIPAL FREE DISPENSARIES.

In addition to the Municipal Dispensary, which was opened in November 1898, in Kumbarwada, another was opened on the 22nd of January 1899, at Dongri. These two free dispensaries have been very largely attended by the poor.

THE PLAGUE.

The first official intimation of the presence of plague in Bombay reached the Municipal Commissioner on the 23rd September 1896. In August of that year cases of fever with glandular swellings had been attended by certain Doctors ; other suspicious cases had been noticed, and a death was actually registered on the 31st of that month as due to bubonic fever. The difficulty of accurately diagnosing this multiform disease was very great; many suspicious cases were put down as diphtheria, the resemblance to enteric often made the differential diagnosis exceedingly difficult in the absence of bacteriological examination; and even bacteriological examination not infrequently proved abortive in clear cases of plague. The disease in its more infectious type was generally pneumonic and devoid of glandular enlargements or was wont to take the form of high fever with slight cough. Doctors often differed in their opinions about cases, and no clearer illustration of the difficulties of diagnosis can be given than the fact that at the latest stages of the epidemic, numbers of cases had to be segregated—and that by Medical Officers—not because the patients had plague, but because they had suspicious symptoms.

Official intimation of Plague.

The mean annual temperature of 1896 was the second highest on the record in the last 51 years. The total fall of rain amounted to 87·65 inches, being 15 inches above the average. But the distribution of the rainfall was abnormal, for, instead of being distributed over four months, it was distributed over a much shorter period—a little over six weeks—and, instead of being succeeded by the great atmospheric disturbance designated “Elephantas,” the monsoon currents ceased in less than two months, and the thunder storm as announcing the end of the rainy season, was absent. The rainfall in June 1896, was 28 inches or 8 inches above the average, and the rainfall in July of that year was 36·4 inches or 11·7 inches over the average. In August the rainfall amounted to 20·8 inches giving an excess of 7½ inches over the average. The rainfall, therefore, was abnormal in its duration. The sanitary effects of

Phenomena that preceded the Epidemic.

the annual rainfall on the public health were as marked as the aberrations of the rainfall on agriculture. The heavy rainfall in 1896, flooded with sewage the low lying portions of the city, through which the polluted streams rushed in swirling currents, leaving banks of mud and sludge behind to ferment or slowly dry ; and moreover, the sewage flowed from the sewers on to the streets after each heavy downpour and rushed up the traps and flowed on to the low lying ground.

In July and August 1896, the humidity was higher than in the corresponding months of the three preceding years, viz:—

	1893	1894	1895	1896
July	·84	·86	·85	·87
August	·84	·84	·85	·86

In December of that year the humidity, notwithstanding the early and abnormal cessation of the monsoon and the higher temperature of the Autumn, was higher.

A gradual rise in the barometer in October, November and December was registered as under.

	Barometer mean range.		Barometer mean range.
August ...	... ·076	January	... ·118
September ...	... ·098	February	... ·119
October ...	... ·111	March	... ·121
November ...	... ·111	April ...	... ·119
December ...	... ·116	May ...	... ·098

Maximum
temperature
1891 to 1897.

The maximum temperature from 1891 to June 1897 was as under.

Months.	1891.	1892.	1893.	1894	1895.	1896.	1897.
January ...	87·1	88·1	85·0	84·3	81·6	85·1	89·0
February ...	83·2	86·4	84·2	86·3	90·1	83·6	81·4
March ...	84·9	89·0	86·3	88·3	72·5	88·0	84·0
April ...	89·1	91·4	91·7	89·3	90·9	92·6	91·1
May ...	89·4	93·0	89·6	89·7	90·1	91·7	91·2
June ...	90·7	88·7	89·4	90·4	91·5	91·0	91·3
July ...	86·6	88·7	85·4	87·0	87·0	86·4	
August ...	84·4	84·3	84·4	84·7	84·4	89·3	
September ...	85·0	84·3	84·4	88·6	86·7	89·2	
October ...	90·4	88·6	88·0	87·3	92·2	91·4	
November ...	89·9	86·9	89·0	88·4	88·8	91·9	
December ...	87·2	85·8	85·4	86·4	86·5	87·2	

The extraordinary flooding due to excessive monsoon was thus described by the *Times of India*. "The oldest inhabitant does not remember such unprecedented fall of rain as that which has deluged the country during the past few days."

Extraordinary flooding during the monsoon.

All traffic to the island was interrupted for five days or so. The grain lay in the wet. The low lying portions of Bombay were under water. Swirling currents rushed down the streets and flowed by the buildings to the low lying places under water. At the most distant points on the Esplanade, near the head of the drainage system, water welled up through the manholes. The subsoil water welled up where it had never been seen before. Wells over flowed that had never been full before.

The following was the abnormal Phenomena.

Abnormal Phenomena.

1. An abnormal season of rainfall that lasted only half the normal period.
2. An abnormally high level of sewage after heavy rain in the arterial sewers in the City.
3. Wet grain in dark damp godowns or granaries underneath human dwellings.
4. And further a balance of some five million gallons of water a day left in the soil—the difference between the water coming into the City and the sewerage going out—a balance indicating great danger at all times.

The first public announcement of this disease was by Dr. A. G. Viegas, a member of the Standing Committee and the Municipal Corporation, in September 1896. Public alarm was aroused after the expression of opinion by Dr. Viegas that the disease was true bubonic plague. An early case was seen by Dr. Ranina in August 1896, in Bhandup street. The patient was unconscious when first seen; temperature 103. According to the history given by friends of the patient, fever had suddenly come on without any premonitory symptoms. There was great pain in the left hip which led to the discovery of two large glands. Drs. E. F and C. F. Underwood had before this treated some suspicious cases with œdema over the glands of the neck.

Bubonic Plague notified.

An Early Plague case.

The difficulties of diagnosing some cases of plague are well described in a paper read by Dr. Hojel at a meeting of the Bombay Medical and Physiological Society on May 7th.

Difficulties of diagnosing some cases.

He writes :—"To day, I should like to read the notes of several cases which I have come across, which I may call (for want of a better term) 'the Abdominal type of plague'. These cases too, perhaps, account for some of the increased mortality from remittent fever in the past 9 months. In their early stages these cases bear a very strong resemblance to enteric fever, and the differential diagnosis is extremely difficult. I speak now purely from a clinical point of view as regards symptoms and signs, for bacteriological Laboratories and apparatus are not scattered broad cast about India, besides which it is a fact that in many cases cultures made from the blood of plague patients prove sterile. It is all important, therefore, that one should be able to recognise such cases both for the good of the community and one's own reputation".

Dr. Lenmann made autopsies on five of the cases treated in the European General Hospital, and Dr. Hojel writes on them as under :—

"Clinically speaking, the preliminary stages of all these cases, as was the fact with all those of which I have notes, were all in favour of their being enteric fever, with the exception, perhaps, that in the presence of an epidemic, such as we have had with us, all cases were viewed with more or less suspicion until they were proved to be otherwise than plague cases. The differential diagnosis in these early stages is, to my mind, extremely difficult, and the importance of early diagnosis is apparent to all."

The first cases.

The first cases reported to the Health Officer, seemed from the description of the symptoms given by the friends, to be cases of diphtheria.

Distressing type of disease.

Six cases, two of them of a very distressing type, were found in Mazagon. They were a group of cases in one family, that had been brought into Bombay from Thana. One of the family, a child, had died in the train on the way to Bombay, from Bubonic plague. Three of the cases had glandular enlargements around the neck. One of these cases, a female, had enormous oedema of the neck extending down below the clavicles on to the chest and into the axillæ. There was great pressure on the trachea and gasping respiration. There was another case with enlargement over the parotid and submaxillary glands. This was a milder case. Undoubtedly the cases were of plague and yet bacteriologically the results of examinations obtained by two different observers were negative. Professor Bitter, who saw the cases, had no doubt as to the type of the disease, and that it was bubonic plague.

The following case treated in the Parel Hospital is of great interest, showing as it does, the varying forms of the disease and how difficult those forms may at times be of recognition. Dr. Thomson writes :—

Varying
forms.

“The German Scientific Plague Commission experts found plague bacilli on three different days in the blood cultures, and the day before death and at the *post mortem* not a single plague bacillus could be demonstrated in the blood of any of the organs. Their conviction was that the patient died from the severe complication, and had his vitality been greater and no complication supervened, he would certainly not have died of plague, all the bacilli being destroyed.”

A very curious case was sent from Dongri to Grant Road Hospital; some medical men present had doubts about the case. The case was of a boy suffering from mycetoma of the foot. He had no indications of bubonic plague, except a peculiar look about the face and a peculiar tongue covered with a white fur. The case was kept under observation. The Russian Scientific Mission made a culture from the foot and obtained plague bacilli. This case afterwards developed an abscess in the liver.

It was not an unusual thing to see dead people lying on the streets, and in many cases people whilst walking along the roads fell down dead. It was also not unusual for a person to die within a few hours of being attacked.

Dead people
in the Streets.

On 1st October 1896, information was received of rats dying in Dongri. Over this district generally rats died in the last week of September of that year.

Rats, Pigeons
and cats.

From the time bubonic plague had established itself in Mandvi at the end of September 1896, large numbers of rats were seen running about the streets and coming out of house connection pipes and drains in a sickly or dying condition. Many of them had buboes actually developed on the neck and groin. Bacteriological examination was carried on by the various specialists present in Bombay on numerous specimens and the plague bacillus was freely detected. It was thus clearly proved in Bombay from the outset, as has invariably been the case, in other places that the disease attacks human beings and rodents. Those acquainted with the life, history and characteristics of the rat tribe are aware, of their extremely clannish habits. In almost every quarter of the city where the bubonic plague appeared in force it was preceded by the

presence of dying rats in considerable numbers. This condition was noticed both in the houses, open streets and gardens. In addition to this a regular migration of rats speedily manifested itself; its course was generally speaking from east to west and thence up the sides and centre of the Island due north. Minor migrations also took place in the south of the city, and that on Malabar Hill was especially noticeable.

The bubonic plague travelled principally from east to west and then north, throwing out branches to the south and obtaining a footing on Malabar Hill later on. By the commencement of December nearly all the rats had disappeared from Mandvi and adjacent quarters of the city, while they were noticed in Kamathipura, Tardeo, and Byculla in great numbers, many of them being found dead. The bubonic plague followed in their track with unerring regularity.

The migration of rats on Malabar Hill was of later occurrence, as the plague did not get a firm hold there till the commencement of 1897. Many rodents were observed dead or dying in the houses along the Walkeshwar, Pedder and Nepean Sea Roads and subsequently on the ridge of the hill just before the disease broke out in force. By the middle of March not a rat was to be seen or heard on Malabar Hill and yet in ordinary times they infect the whole locality and are constantly appearing or making their presence known.

On the 9th November 1896, 5 dead pigeons were found in Surat Street and on the evening of the same day nine more were found. Three days later 5 more were found.

A large number of dead and sick cats were observed in January 1897. Some of the sick cats were examined bacteriologically, but the results were sterile. On the 25th of that month, Dr. Jennings wrote: "I have observed a large number of dead and sick cats about, and am of opinion that these animals are being affected with some disease of the nature of the plague."

A cat was found suffering from a disease that appeared to be bubonic plague with enlarged glands on both sides of the neck.

The general treatment of houses embraced the thorough cleansing and disinfection of every room where a case occurred; all *moris*, *nahanis* and traps connected with the

building were carefully disinfected. Dry chloride of lime or carbolic acid powder was sprinkled over the floors and passages, not only of the affected houses, but also of the neighbouring ones. The building, inside and out, as well as the gullies, was thoroughly flushed, the roof opened, and all obstructions to light and air removed. The house connections were overhauled all rubbish such as rags, old clothes &c., of which there were enormous quantities, and all infected articles of small worth, were burnt, anything of value being thoroughly disinfected, while the premises were limewashed from end to end before reoccupation.

The conditions of the grain godowns on the Port Trust estate attracted early attention, as it was found that numerous cases of plague were occurring in the dwelling rooms above them. In every instance where a case of plague was known to have occurred above a godown, the place was closed for 20 days, the grain and other merchandise were taken out and exposed to the sun, sulphur was freely burnt inside and outside the building, and the godowns themselves thoroughly flushed and disinfected. Similarly in the case of shops, when a case occurred, no goods were allowed to be sold till they had been exposed to the sun for at least a day. The shops were not allowed to be used till they had been shut up and completely fumigated for 3 days and even then had to be lime washed before they were allowed to be reoccupied.

The grain
godown shops.

Systematic flushing and disinfection was carried out in the gullies, courtyards, and drains. Wherever the approach of plague was feared, disinfectants were distributed to the people with instructions how to use them. Special sanitary precautions were enjoined upon the managers of mills, schools and other large concerns. While the grave yards were carefully watched with a view to the rigorous enforcement of the regulations. Ambulance carts were provided and health camp erected in the city.

On the 6th October 1896, the Municipal Commissioner issued the following notification:—“Whereas a dangerous disease namely Bubonic plague has broken out in certain parts of the city of Bombay and the Municipal Commissioner is of opinion that the ordinary provisions of the city of Bombay Municipal Act 1888, or of any other laws

Plague notification of the
Municipal
Commissioner

in force in Bombay are insufficient for the purpose of effectually preventing the spread of such disease, Public notice is hereby given that, with the sanction of the Government, and pursuant to the provisions of section 434 of the said Act, the Commissioner hereby prescribes the following temporary regulations to be observed by the public and all persons concerned. And further that the Commissioner will if necessary, take special measures as are hereby indicated for carrying into effect the objects of the said regulations :—

1. In extension of the provisions of sections 422, 425 and 427 of the said Act, it is hereby prescribed that every person having the control or charge of any building, or part of a building shall, on demand by the Commissioner or any officer to whom the powers, duties or functions of the Commissioner under those sections may have been or may be delegated, immediately cause such building or part of a building to be opened, and shall permit the Commissioner or any such officer as aforesaid to cleanse and disinfect the same, to cause the removal for disinfection or destruction of any grain, bedding, or clothing, or of any other goods or articles found therein. For the purpose of carrying into effect the object aforesaid, the Commissioner or any such officer as aforesaid will, whenever he shall deem it necessary so to do break open and forcibly enter any such building or part of a building and, without previous notice to the owner or occupier thereof, will cleanse and disinfect the same, and direct or cause the forcible removal and disinfection or destruction of any grain, bedding, clothing, goods, or articles as aforesaid.

2. In extension of the provisions of section 424 of the said act, it is hereby prescribed that any person suffering from bubonic fever, wheresoever found and whether provided with proper lodging or accommodation or not or whether lodged in a building occupied by more than one family or not, shall, on a certificate signed by the Executive Health Officer or by any duly qualified medical practitioner that such person is suffering from the said disease, be liable to be removed to any hospital or place at which patients suffering from the said disease are received for medical treatment. For the purpose of carrying into effect the objects of this regulation, the Commis-

sioner or any officer to whom the powers, duties, or functions of the Commissioner under section 424 have been or may be delegated, or any police officer empowered by the Commissioner in this behalf, will, whenever he shall deem it necessary, so to do, cause any person in respect of whom such certificate as aforesaid has been made to be removed to any such hospital or place as aforesaid.

3. Every house in which any case of the aforesaid disease exists or has existed shall, for so long as the Commissioner shall deem necessary, be isolated in accordance with such orders as the Commissioner may in each case prescribe, and every occupant of such house and other person who may be therein or who may resort or desire to obtain access thereto, shall obey any order which he may receive from the Commissioner or any Municipal or Police Officer empowered by the Commissioner in that behalf, prohibiting ingress to or egress from such house. For the purpose of carrying into effect the objects of this regulation, the Commissioner or any such Municipal or Police Officer as aforesaid will, if necessary, forcibly prevent persons from entering or leaving such house."

This notification was received with loud denunciations, and answered by petitions protesting against its terms, and many classes of the population announced that they would leave the City and did so. It was stated that the hospitals were places of torture and places intended to provide material for experiments. The Officers of the Health Department were charged with a brutal pleasure in dragging the sick from their homes and in killing them.

As people in a panic flying from danger unknown, so some in mad panic fled; they knew not whither.

On the 20th October, 500 mill hands assembled on the road outside the Arthur Road Hospital and threatened to wreck the building and carry off the patients. On the 29th of that month some 900 or 1,000 mill hands collected and rushed into the compound of the Hospital and threw stones at the building. Even some of the patients were struck by the missiles, and all were greatly terrified. The news of the disturbance was at once telephoned to the Police who promptly appeared on the scene. In this disturbance one of the ambulance vans was smashed, and the roof of the hospital damaged.

Public excitement and alarm.

Attack on the Arthur Road Hospital.

The second
notification.

The position becoming one of grave alarm, the Municipal Commissioner issued the following notification on 30th October 1896.

“Whereas the Municipal Commissioner is informed that great alarm has been caused to the public by the notification recently issued under section 434 of the Municipal Act, and whereas the objects of that notification have been misunderstood, inasmuch as the powers under it were obtained principally to meet the case of a large increase of bubonic plague. The public are now hereby informed that no cases, where segregation and treatment can be carried out on the premises, will be removed to the Arthur Road Hospital, and in such cases as require removal no action will be taken except upon the certificate of a qualified medical practitioner employed by the Health Department. The Executive Health Officer has been instructed accordingly, and the Commissioner of Police informed.”

On the 11th December 1896, a Committee composed of members of different communities, was formed.

The Committee issued the following notice:—

How to
avoid Plague.

“At a meeting of several influential citizens held on the 11th December 1896, the gentlemen whose names are given below, representing the different communities of this City, were appointed to form a Committee to consider, amongst other things, the steps best calculated to prevent the spread of the plague and to recommend to the people at large the precautionary measures to be adopted to avoid the disease. The Committee have been able, with the assistance of the best expert opinion, to prepare the following rules which embody recommendations which should be carefully observed, and, in order that these rules may be widely known to the public, the Committee have decided to publish and circulate them in different languages in the form of hand-bills over their signatures. The Committee hope that it will be clearly understood that the instructions and recommendations contained in the following rules emanate from the Committee. The names of the members of the Committee will, it is to be hoped, be a sufficient guarantee to the different communities of this City that the recommendations made are to the best interests of the people themselves and of the health of the City. In view of the present dangerous state of public health, the necessity of keeping houses in the town, and specially those in crowded parts, clean and free from bad smells, and of following the instructions conveyed in the rules, cannot be too great—

ly impressed upon the people. Light and air ought to be allowed to enter houses freely, and wherever the means of ventilation are not sufficient it is extremely desirable that steps should be taken to provide better ventilation, so that sun light and fresh air may enter the rooms. The Committee earnestly hope that the advice given by them, coming as it does from the representative men of the different communities, will be cheerfully adopted and acted upon."

BHALCHANDRA KRISHNA }
BHATAWADEKAR.

K. N. KABRAJI.

ISMAL JAN MAHOMED.

O. V. MULLER.

A. P. MODY.

N. N. KATRAK.

} Honorary
Secretaries.

In the rules the Committee gave excellent advice. They urged the people to inform the Municipality of all cases, and to leave infected houses. The danger of wet or damp places inside dwellings was pointed out. They advised the people to be careful of abrasions or sores, and dwelt on the necessity of burning all articles that had come in contact with the sick.

The epidemic, continued to increase and coupled with the operations in progress, was productive of widespread alarm. The people refused all medical aid and would not listen to any advice. Many began to leave the city. While the panic was at its height and the exodus in full flow, the scenes at the railway stations were striking—a large crowd of natives of every caste and creed pressing and shouting for tickets. As special after special left the stations, the relics of the disappointed crowd sooner than miss the next opportunity would quietly settle down to sleep on the platforms. The busy scenes at the several stations stood out in marked contrast to the quietness of Bombay; whole streets of shops were closed, business was paralysed and the desolate emptiness of thoroughfares, ordinarily teeming with life, was most remarkable and continued throughout the months of December 1896 and January 1897, when the population had been reduced to its lowest figure.

Exodus from
the city.

In September 1896, the number of plague deaths was only 79 while in the next month it rose to 313, and in the month following to 273. Then with an extraordinary virulence it rose to 1271 in December and to 2108 in

The viru-
lence of the
disease.

January 1897. In February of that year it was 3241, in March it dropped to 2448 and in April to 1268. Then it started declining; in May it was 368, in June 43. The proportion of attacks to death was 86.94 per cent.

Immunity
from the dis-
ease.

The Europeans were almost immune, only one death from plague having occurred among them upto the end of 1896. Eurasians and Mussulmans enjoyed the greatest security, in this year, after Europeans. The Jains and Lingaets suffered most severely; other classes and races were more or less evenly afflicted.

Visit of H.
E. the Go-
vernor to some
of the houses
in Peru Lane.

The following description of the insanitary buildings in Peru Lane is of interest, but more especially as some of the houses had been inspected by H. E. Lord Sandhurst in 1896. His Excellency went through the lane late at night with Dr. Weir, the Health Officer, and one of the places he inspected by the light of a weaver's dim lamp—a few cotton threads of cotton in oil lying on a plate—was a building without any means of ventilation except the front doors and a little space on the side of each privy and having holes on the ground floor in which poor weavers sat when they worked. Except from an open space near the privies and the front door not one of them had any other means of air and light. The buildings were occupied by a poor class of Mussulman.

Description
of insanitary
dwellings.

The description proceeds. "I have completed a thorough inspection of all the houses in Peru Lane with a view to action being taken to their being either condemned or rendered more suitable for human habitation.

"Houses 9 to 11. Rooms on ground floor have no means of obtaining sufficient air and light.

"Houses 27 to 33. Most of the rooms are pitch dark and have no means of obtaining light and air. The staircase is dark and narrow and the waste water pipe runs within the house". *

Government
notification re-
garding Rail-
way Inspec-
tion.

On 10 February 1897, Government issued the following notification in regard to the inspection of Railway traffic:—

1. "Every train coming from the direction of Bombay to any of the stations to which these rules may be declared by Government to be applicable shall be stopped at such station and shall not be taken further until the inspection provided by these rules has been carried out, and until the guard in charge of such train has obtained

* For a full description see the plague report for 1896 pages 198-9.

a certificate from the Chief Medical Officer in charge of the inspecting staff to the effect that all persons proceeding further by the said train, whether railway servants or passengers, are free from bubonic plague.

2. "Every such train shall be emptied for inspection of the passengers in such manner as the Chief Medical Officer on duty may direct, and all such facilities shall be afforded by the servants of the Railway Company as the Chief Medical Officer on duty may deem to be necessary for the purpose of inspecting.

(a) "Persons who have come by such train, whether they intend to proceed by it or not, and

(b) "Persons who intend to start from any of the said stations and to travel by such train.

"In particular the doors of all railway carriages shall be locked at the station at which the train last stops before arrival at the station appointed for the inspection of passengers under these rules.

3. "The Governor in Council may appoint any person or persons by name or by virtue of office, to be the Inspecting Medical Officer or Officers for the purpose of these rules, and may cancel any such appointment.

4. "Inspecting Medical Officers appointed under these rules are empowered to examine all persons arriving by or intending to leave by the trains mentioned, and to detain persons suffering or suspected by them to be suffering from bubonic plague in such places as may be appointed for the accommodation of such persons respectively.

5. "The Police shall act under the orders given by the Chief Medical Officer on duty under these rules with regard to compelling persons to submit to such regulations as may be made or approved by the said officer for the purpose of inspection and with regard to the detention and segregation of persons suffering or suspected to be suffering from bubonic plague.

6. "Disobedience to any orders issued under the above rules Nos. 1, 2, 3, 4 and 5 will subject the offender to a prosecution under section 188 Indian Penal Code."

The inspection of all passengers leaving Bombay by sea commenced on the 6th February 1897, and the inspection of the inward sea traffic commenced on the 12th April

Inspection of
persons leav-
ing by sea.

1897, but from the beginning all passengers for Europe, &c., were examined. The native crafts were examined at three different anchorages, and the steamers were examined at the wharves. Passengers, who came from Colaba were kept for 5 days under observation, and passengers from Kutch Mandvi were detained for 8 days, as bubonic plague was prevalent, at both these ports.

Hospitals.

For Europeans, St. George's Hospital was opened to admit cases. In Mandvi and Bhuleshwar private hospitals were opened for Hindu patients. Then there was the Jain the Parsi, and the Mussulman Hospitals. Other hospitals and health camps were provided in different parts of the city.

Government notification of measures to prevent the spread of Bubonic Plague.

On 10th February 1897, Government issued a notification, empowering the Municipal Commissioner to take measures to prevent the spread of Bubonic plague. The notification specified the measures in regard to :—

- (1) Dealing with buildings unfit for human habitation.
- (2) Overcrowding of buildings so as to endanger health.
- (3) Vacation of buildings for cleansing or disinfection.
- (4) Deserted or locked up buildings.
- (5) Power of dealing with buildings and articles found therein.
- (6) Cleansing and disinfection, which included the removal of earth or soil of floors and the whole or part of the roofs of buildings.
- (7) Compensation for damage caused by destruction or disinfection.
- (8) Cutting off of water connections inside buildings where injury to health was apprehended, and provision of other means of water supply outside such buildings.
- (9) Demolition of buildings unfit for human habitation and procedure to be followed in ascertaining value and the compensation to be paid to owners.

Curious suggestions. Patent medicines &c.

In the beginning people were more confident of cure. One man wrote stating that he had a cure not only for plague, but for hydrophobia, murrain, pneumonia, and anthrax. Many suggestions were received, some of which were very curious. One wrote : "Remove the nasty

sewers, and, to be sure, the plague will disappear." He also asked that the Chairman of the Corporation should be informed of the advice he had given. A person wrote stating that he had "means by virtue of which he could relieve the public of the so fiercely prevalent disease in the City of Bombay in the course of 16 days."

Another wrote: "The chief cause of the plague is, in my humble opinion, as well as in the opinions of the people in general, that bad drainage, and chiefly the smell enters the house which has no remedy in the hands of the people to put a stop to, is the cause of the plague."

The burning of horse manure was suggested as a remedy. Many people objected to sulphur—the "nasty sulphur" as it was called. Others were very business like. One wrote: "I beg to request what reward and pay I shall get if the preparation is shown by me." Some were very modest and would commence in this way. "In time of need, advice is indeed acceptable from many sources," but as they went on, they became more confident, and would guarantee that the weekly death rate of the city would be reduced by more than one half, and they would often say that they were the inventor of a patent specific that warranted to cure every malady. A *Hakim* undertook to root out the disease. He also wrote: "If God helps me in curing the plague cases, what a great blessing will be to your honour." One man offered to supply a cure on advantageous rates. Another guaranteed to stamp the plague out in 25 days. A seller of medicine asked the Health Officer to try his patent medicine. He stated that the plague microbes were killed immediately, and to do so, all that was necessary was to "fill up the system, with Ague Mixture." This well meaning seller of patent medicines lived in a district where bubonic plague did not come for some time. At last it came close to his house and he ran away and left his fever mixture behind—the wisest thing he could have done. Another guaranteed to cure every case in 4 hours. Some of these charlatans affected much grief and one wrote: "that not being able to bear the sight of so many dying every day, I beg leave to make my remedy known to you." Some of these remedies consisted in applying medicines to the conjunctiva.

From Europe, one unknown, telegraphed that a certain preventive was the excellent and old remedy, of salt and water.

Among other remedies suggested was a pill made of pigeon's dung. One person sent a specific called the "Fume-destroying Elephant like disease." One of the plague destroyers certifies his powder to have marvellous qualities. This is the form of disinfecting powder—"Odorous, and when burnt, the smoke is potent enough to check the plague by destroying all the germs of the dire disease."

At their meeting held on 8th March 1897, the Corporation considered the following :—

MALABAR POINT, 5th March, 1897.

Appointment
of a Com-
mittee by
Government.

Dear Mr. President,—My Government are about to issue a Notification under the Epidemic Diseases Act, appointing an Executive Committee to carry out, under the orders of Government all the measures within the city of Bombay that we consider necessary to check and prevent the spread of the plague. It is my wish that there should be no misunderstanding of the reasons which have led to this course.

2. The epidemic has now been prevalent for more than five months ; since October last it has been severe ; during the past three months it has been so severe that the total number of deaths has been from three to four times the normal number ; and this without making any allowance for the large diminution that we know has taken place in the population of the city. Steps to check the spread of the disease have been taken ; the Municipal Commissioner and the servants of your Corporation have worked with an energy and a devotion to duty that have commanded our unstinted admiration. The cleansing and disinfecting of the City have been thorough. It is scarcely an exaggeration to say that the continued presence of the epidemic in Bombay to its present extent is conclusive proof that it cannot be kept in check by cleansing and disinfecting and all the other measures that have so far been relied on as sufficient. Other measures are needed. If we cannot summarily kill the plague, we can, I am advised and I believe, check its spread, reduce its strength, and limit and weaken it, till it will die a natural death. But we cannot do this unless we take larger and different measures from those we have hitherto adopted. And first of all it is impossible to deal with this disease unless we know where and to what extent it exists. We must, therefore, search for and discover it. This is merely a matter of enquiry, but the enquiry must be more widespread, more constant, and more systematic than heretofore. Next we must provide a sufficient number of hospitals, at convenient places with every

regard to religion and sex, for all who suffer from plague, and we must ensure the removal to them of all persons so suffering; we must treat them well and show that treatment in a hospital is the most humane and hopeful course that can be adopted. Those in charge of hospitals will be instructed that, as far as possible and practicable, they should be open to friends and relatives of the patients, who should be encouraged to come and see for themselves that the patients are well cared for. I am glad to find that private effort has already provided several hospitals; that is a good and wholesome sign. This is a time when the City needs every help and support that its citizens can give; it is the duty of each one of us, by example and persuasion, to demonstrate that treatment of plague patients in hospitals is essential to the welfare of the patient and to limit the possibilities of spreading the disease. It is a duty that I hope the members of the Corporation will take upon themselves earnestly and actively.

3. But the requirements of the case do not end with hospitals. If we are really to check this epidemic, to prevent it wandering wherever chance may take it, we must try to watch, in some way, all those who are in special danger of being attacked; those, for example, who have lived in the same room with, or in close attendance on, a plague patient. There is a danger that such persons may have contracted the disease. We must watch them, so that at the first indication of illness the patient may be brought under treatment. By this means we shall secure for him the best chance of recovery, and on behalf of others the least scope for infection.

4. Very briefly put, these are the measures on which I mainly rely for a successful fight against the plague. To carry them out most effectively, it is necessary to appoint a small Committee, not to consult and advice, but to work—a Committee that will divide the whole scheme of work, apportioning certain branches to each member. It is desirable to include in this body a Medical man and Engineer. But as the Committee is to be a working, not an advising, body, it must be as small as possible. We have come to the conclusion that what we need will be secured by a Committee of four, and, to form that Committee, we have selected General Gatacre as Chairman, Mr. Snow, the Municipal Commissioner, Dr. Dimmock, and Mr. James, one of the Engineers of the Corporation. They will be subordinate only to Government; this is essential, both because it is Government alone, by exercising the powers very recently conferred under the Epidemic Diseases Act, that can call the Committee into being and for another reason that I will now explain.

5. Unhappily this epidemic has spread beyond Bombay; it has attacked certain places in the Thana District and Poona severely, and reached to other places. As people move from infected

places to others, they may take the plague with them; its tendency is to spread. Our efforts required to be widespread, far-reaching, and systematic; they must, wherever they may be, be directed, controlled, and harmonized. We cannot have one practice pursued in Bombay and a materially different one elsewhere; our methods must be consistent and complete, and beyond everything we must, if possible, be successful before the rains.

6. So individual efforts, whether of Municipalities, of Local Boards or of local officers, must all be made systematic and co-operative, and this can only be done by Government; they must take the control absolutely into their own hands. To do this is no slur on local bodies; it is no blow to local self-government; it is simply an imperial necessity.

7. With the earnest hope that the necessity for the action of Government will be apparent to all and that the co-operation of all the citizens of Bombay may be secured,—I am &c.,

SANDHURST.

To COWASJI HORMUSJI, Esq.,

President of the Municipal Corporation of Bombay.

MALABAR POINT, 5th March 1897.

Dear General Gatacre,—It is desirable that I should supplement the Notification appointing your Committee by some definite written instructions as to the course of action you should take. The Notification empowers you to carry out the measures to be taken to suppress and prevent the spread of bubonic plague. These measures should comprise an organization for (1) the discovery of all cases of plague; (2) the treatment of all cases in hospitals; and (3) the gradual segregation, as far as possible, of the probably infected—that is, of those living in the same room with, or in close attendance on, a person who is found to have the plague. These are the objects to the attainment of which your energies should be directed. I am sure I need not do more than indicate that in all cases of obstinacy or misunderstanding on the part of those whom it is our endeavour to benefit, persuasion and gentleness should be used; that the privacy of women should be disturbed as little as possible and only by women; and that the caste and religious usages of the people should be treated with all consideration. It is essential that the hospitals should, as far as is possible and practicable, be open to the friends and relatives of the patients who should be, as far as possible, accommodated near them and encouraged to come and see for themselves that the patients are well cared for. Everything that can be done is to be done to avoid creating a feeling of distrust, and I hope that those employed under you will, by combining persuasion and explanation with firmness, avoid this evil. Every advantage also should be taken of the

services of natives of influence. Many influential gentlemen of the various communities, most of whom are Justices of the Peace, have offered their services, and I have great confidence that the assistance they will render you will be really beneficial. In carrying out these measures, you will have at your disposal the whole staff already employed in plague operations in the City of Bombay. You are empowered to add to their number and to arrange and organize them in what you consider to be the most effective way.—Believe me, &c.,

SANDHURST.

Notification.

GENERAL DEPARTMENT.

No. 1204—702-P.

BOMBAY CASTLE, 5th March 1897.

In exercise of the power conferred by sub-section (1) of section 2 of the Epidemic Disease Act, 1897, and of the powers in this behalf conferred by the Governor-General in Council under section 2, sub-section (3), of the same Act, the Governor of Bombay in Council is pleased to direct as follows:—

Government
Notification.

1. The following gentlemen are constituted a Committee for the purpose of carrying out under the orders of Government, the measures to be taken to suppress and prevent the spread of bubonic plague in the City of Bombay:—

(1) Brigadier-General W. F. Gatacre, C.B., D.S.O., Chairman.

(2) Mr. P.C.H. Snow, I.C.S. Barrister-at-Law,
Municipal Commissioner, Bombay Municipality.

(3) Surgeon-Major H. P. Dimmock, M.R.C.S.,
L.R.C.P.

(4) Mr. C.C. James, A.M.I.C.E.

} Members.

2. The Committee are invested with all the powers conferred on or vested in the Municipal Commissioner for the City of Bombay by sections 422, 423, 424, 425, 426, 427 and 429 of the City of Bombay Municipal Act, 1888, and by the notification of the Municipal Commissioner, dated the 6th October 1896, and by the notification No. 228-P. of the Governor of Bombay in Council, dated the 10th February 1897, and the Committee are empowered to take any of the measures authorized by the said sections and notifications.

3. The Municipal Corporation of the City of Bombay and all the officers and servants of the Corporation and all public servants and all persons employed by the Committee shall carry into effect without delay any measures which may be ordered by the Committee.

4. All expenses incurred in carrying out such measures shall, in the first instance, be paid out of the municipal fund of the City of Bombay, but the Municipal Commissioner or the Corporation may recover from any person any amount which such person would under similar circumstances be liable to pay to the Municipal Commissioner or the Corporation under the City of Bombay Municipal Act, 1888.

5. On the requisition of the Committee, the Commissioner of Police shall give such assistance as may be necessary in order to enforce immediate compliance with any order of the Committee.

By order of H. E. the Right Hon'ble the Governor in Council
J. DEC. ATKINS, Secretary to Government.

Proposed by Dr. K. N. Bahadurji, M. D., seconded by Rao Bahadur Dhakji Kashinathji—

“ That the consideration of letter from H. E. the Governor to the President, dated 5th instant, be postponed until the meeting on Thursday, the 11th instant.”

Amendment proposed by George Cotton, Esq., seconded by Badrudin bin Abdula Kur, Esq.—

Corporation
Resolution on
Government
reference re :
appointment of
Plague Com-
mittee.

(1) “ That the President be requested to convey to H. E. the Governor the sincere thanks of the Corporation for the courteous assurances contained in his letter. (2) That the Corporation, without discussing the necessity of appointing the Sanitary Commission, for objects which could have been carried out without such intervention, will cordially co-operate and give all such assistance as may be necessary to carry out the measures adopted by the Commission. (3) That, though the Corporation consider that the language employed in section 3 of Government notification is not consistent with the constitutional position and functions of the Corporation, they will content themselves in the present grave crisis by putting on record their objection to such language, especially as they are persuaded that nothing further is meant than to require their assistance as is done in section 5 with regard to the Commissioner of Police, who is a direct servant of Government.”

Rider to the motion proposed by the Hon'ble Mr. Abdalla M. Dharamsi, seconded by K. M. Shroff, Esq.—

“ That in the meantime, and as a matter of urgency, the Corporation approve of the expenditure of such sums of money as may be applied for by the Municipal Commissioner on behalf of the Special Committee appointed by Government to the debit of the special grants already sanctioned for the suppression of the plague.

“ That the following Committee be appointed to consider and report on the letter :—Mr. Cotton, Mr. Roughton, Dr. Bhalchandra K. Bhatawadekar, the Hon'ble Mr. Nowrosjee Wadia, Dr. Bahadurji, and the Hon'ble Abdalla M. Dharamsi.”

The rider was accepted as part of the original motion.

With the permission of the President and the consent of the meeting, the amendment was *withdrawn*, and the motion was *carried* (with two dissentients) as follows :—

“That the consideration of letter from H. E. the Governor to the President, dated 5th instant, be postponed until the meeting on Thursday, the 11th instant.

No. 13642.

“That in the meantime, and, as a matter of urgency, the Corporation approve of the expenditure of such sums of money as may be applied for by the Municipal Commissioner on behalf of the Special Committee appointed by Government, to the debit of the special grants already sanctioned for the suppression of the plague.

“That the following Committee be appointed to consider and report on the letter :—Mr. Cotton, Mr. Roughton, Dr. Bhalchandra K. Bhatawadekar, the Hon’ble Mr. Nowrosjee N. Wadia, Dr. Bahaburji, and the Hon’ble Mr. Abdalla M. Dharamsi.” (8-3-97)

The Corporation resumed consideration of the letter, from His Excellency Lord Sandhurst, G.C.I.E., Governor of Bombay, to the President, Government Notification No. 1204—702-P. and also the following :—

BOMBAY 10th March 1897.

“That the consideration of letter from H. E. the Governor to the President, dated 5th instant, be postponed until the meeting on Thursday, the 11th instant.

No. 13642.

“That in the meantime, and as a matter of urgency, the Corporation approve of the expenditure of such sums of money as may be applied for by the Municipal Commissioner on behalf of the Special Committee appointed by Government, to the debit of the Special grants already sanctioned for the suppression of the plague.

“That the following Committee be appointed to consider and report on the letter :—Mr. Cotton, Mr. Roughton, Dr. Bhalchandra K. Bhatawadekar, the Hon’ble Mr. Nowrosjee N. Wadia, Dr. Bahaburji, and the Hon’ble Mr. Abdalla M. Dharamsi.

THE Committee of the Corporation appointed at the meeting of that body on the 8th instant, as per margin, beg to recommend the Corporation to adopt the following resolutions :—

1. That the President be requested to convey to H. E. the Governor the sincere thanks of the Corporation for the courteous assurances contained in his letter.

2. That the Corporation, without discussing the necessity of appointing the Plague Committee for objects which could have been, and were being largely, carried out without such intervention, or the legality of the course adopted by Government, will cordially co-operate and give all such assistance as may be necessary to carry out the measures adopted by the Committee.

3. That, though the Corporation consider that the language employed in section 3 of Government notification is not consistent with the constitutional position and functions of the Corporation, they will content themselves in the present grave crisis by putting

Report of the Committee of the Corporation re : Government reference and Corporation Resolution thereon.

on record their objection to such language and to any inference that may be drawn from it being considered as a precedent especially as they are persuaded that nothing further is meant than to require their assistance as is done in section 5 with regard to the Commissioner of Police, who is a direct servant of Government.

4. That the Corporation would respectfully submit that, in view of the large expenditure now being demanded from the Corporation, Government may be pleased to give some assurance that a fair and reasonable portion of the expenditure will eventually be met from Imperial funds, the efforts towards stamping out the plague being in a great measure an Imperial question quite as much as a local one.

5. The Corporation feel sure that Government will recognize the propriety of not allowing the expenditure to be unlimited or uncontrolled, and the Corporation respectfully request that, bearing in mind the present depleted state of the Municipal balances owing to the heavy decrease in Municipal revenues and the large expenditure already incurred in suppressing the plague, Government will be pleased to direct that in no event should the expenditure of the Plague Committee be allowed to exceed five lakhs of rupees without reference to, and sanction of, the Corporation.

ABDALLA M. DHARAMSI.

G. W. ROUGHTON.

NOWROSJEE N. WADIA.

G. COTTON.

BHALCHANDRA K. BHATAWADEKAR.

K. N. BAHADURJI.

Proposed by the Hon'ble Mr. Abdalla M. Dharamsi, seconded by George Cotton, Esq.—

“That report, dated 10th instant, of the Committee of the Corporation appointed to consider and report on No. 14091. letter, dated 5th idem, from His Excellency the Governor to the President, regarding the appointment of the Plague Committee, be approved and that the President be requested to address His Excellency the Governor in terms thereof.”

carried.

Division of
the city.

The first step taken by the Committee was the division of the City into ten districts, due regard being observed as to density of population and number of houses. Each district was placed in charge of a responsible Medical Officer.

Instructions
for Medical
Officers.

The following duties were laid down for the Medical Officers and Nurses working under the Committee.

1. To Superintend and exercise sanitary supervision of the whole district in their charge, reporting to the Plague Committee and Health Officer daily.

2. To supervise the working of the District Hospitals and to attend the same routine.

3. To supervise the work of the search parties in conjunction with the Justices of the Peace.

4. To control the disinfection of the infected areas and buildings.

5. To Inspect all Segregation Camps in their districts.

6. To call the attention at once of the officer appointed by Government for the condemnation of insanitary buildings to any such premises in their districts.

7. To report on registration of burials and cremations in their districts, and to supervise sanitary condition of cemeteries.

8. To send daily reports to the Plague Committee and Health Officer of casualties occurring during 24 hours preceding 6 a.m. with details of—

(a) What has transpired during the preceding 24 hours in their districts.

(b) Any suggestions they have to offer.

The Sisters of the Bandora Convent were put in charge of the Hospitals at Mahim, Sion, Bandora and Parel Government House. The Sisters from Clare Road Convent took charge of Grant Road, while the Mazagon Sisters, nursed at the Arthur Road Hospital.

The following proclamation was published.

“Be it known to all concerned that Government, in its anxious concern for the well being of the inhabitants of Bombay and for the complete extinction of the plague now prevailing in your homes, have decided that, in accordance with the opinion of many Doctors and Hakims, it is necessary to remove all persons suffering from plague from their houses for a short time and to treat them in hospitals, public or private. Further that where a sick man has been taken away from a room, his family shall also vacate such room and shall take care of and tend the sick man, so as to enable the room to be cleaned by the Municipality. Be it well known that where a private hospital has been established in a *jamat*, all cases of plague in men, women, or children shall be taken thither, or, where no *jamat* hospital exists, to one of the hospitals of Government, where in the hands of God and the nursing sisters the patient may be cured.

Nursing
Sisters.

Notice re:
House to
House visita-
tion.

“Be it known, that while such persons are being treated in any hospital, either public or private, all expenses for food, medicine, and clothes shall be borne in the case of Government Hospital by Government, and in a private hospital by the leading men of the *jamat*.

“That further it is only those sick with the plague or small pox who shall be taken to hospital, and that those suffering from any other cause shall be treated in their own homes by their own Doctors (Hakims). That in every house which is searched in which purdah women are living, the purdah women shall be visited and inspected by lady doctors only, and shall, when removed to hospital, be taken in a covered conveyance in charge of a lady Doctor, who shall place them in a purdah hospital where they shall be treated by women only.

“That all contrary statements to the above decrees are lying misrepresentations of the truth, published by designing persons to forward their own ends. Let all such persons take warning that Government will view with displeasure and disfavour all such persons as seek to mislead and do mischief to the ignorant, for these readily believe the word of their superiors, who can either do much harm by their bad advice or much good by wise counsels.

“That the Committee approved by Government to stamp out the epidemic will at all times be ready and pleased to assist with their advice such as come to them for it, and with money, those who cannot afford to pay expenses which the plague has cast upon them.”

Diagnosis of
Plague.

The following points guide one in arriving at a diagnosis.

- (1) Character of the tongue.
- (2) High temperature, with hot dry skin.
- (3) Injection of conjunctivæ usually met with.
- (4) Delirium, sleeplessness, headache, vomiting.
- (5) Sudden onset without premonitory symptoms.
- (6) Dull, heavy, apathetic look.
- (7) Pulse full, soft, compressible and dicrotic.
- (8) Marked mental hebetude and lethargy.

All doubt is removed on the appearance of the bubo with some or most of the preceding symptoms and signs ; and no one sign or symptom can be relied on as pathognomic of plague, but the general clinical phenomena must be viewed together and the diagnosis arrived at from the patients condition as a whole.

The onset of an attack of plague is usually very sudden, the patient being struck down with the following premonitory symptoms. He is seized with rigor, or a feeling of chilliness, followed by frontal headache, nausea and vomiting, lassitude and disinclination for exertion. The vomiting is of cerebral origin, bilious in character, and may be frequently repeated without bringing any relief to the patients feeling of illness. The tongue is large, pale (often teeth indented) and evenly coated first with a thin white, and later with a yellowish brown fur. This fur is confined to the dorsum of the tongue, the tip and edges and under part of the tongue being bright red and clean, and the amount of furring increases towards the back of the organ. Thirst is generally complained of, but the appetite is good and the taste not perverted. The pulse is over 100, full, soft, and bounding, at an early stage of the disease, becoming later frequent, small, markedly di-crotic and very compressible, and finally anacrotic, running and imperceptible and rarely irregular or intermittent. The respirations are accelerated, averaging over 30 per minute and there may be slight cough. The face is suffused and muddy; the conjunctivæ injected and the eyes watery, and the general expression dull, heavy, and stupid. Usually there is giddiness, restlessness, and loss of sleep, or snatches of sleep broken by slight delirium and confusion of the memory and intellect &c.

The general treatment is directed towards checking the development of the virus as far as possible, keeping up the strength of the patient to the utmost, and treating various complications as they arise. Rest, careful nursing, quiet, dieting and good sanitary conditions are most essential as a basis of treatment. Plague patients must invariably be treated in large airy, well ventilated rooms, quite free from overcrowding, which must be kept scrupulously clean. Calomel may be

Treatment of
Plague cases.

administered at the outset, and, if necessary, be followed by a saline purge. If the condition of the patient renders the administration of medicines difficult, repeated small doses of calomel may be placed on the tongue and washed down with brandy and milk. Liquid Hydrarg. Perchlor. in fairly large doses, 2 drachms, every two hours for a few doses, and one drachm to be continued afterwards. Other drugs have been used for their antiseptic properties *e. g.* Salol, Jinacol, Carbolic Acid, Sulpho-Carbonate of Soda, Thymol.

Rice gruel with milk in small quantities and given frequently was found a good staple diet for all plague patients, it relieves thirst and is easily digested. Milk with equal parts of soda water also answers well. The diet should always be principally milk and farinaceous food.

Change of
administra-
tions.

Government in their resolution No. 3018—3397-P, of 27th May 1898, transferred the responsibility of plague administration in Bombay from the Plague Committee to the Municipal Commissioner under the direct control of the Plague Commissioner. They further provided for the appointment of a special Deputy Commissioner and a Special Medical Officer.

The Plague Committee actually handed over charge of plague operations to the Municipal Commissioner, on the 7th June 1898.

Mr. J. H. DuBoulay I. C. S. was appointed to be Deputy Commissioner for plague operations.

Retrospect of
former alarms
of Plague.

The Health Officer (Dr Weir) says :—" Looking over the reports of former years, I came across a reference to plague, and I find that in 1877 there was some fear of the importation of plague into Bombay. I quote from my report :—" From time to time, as emergencies arose, the exclusion of infectious diseases from the city, either through the channel of the harbour or from inland, has attracted great attention. Committees, in one of which I took a part, have sat and drawn up rules for quarantine. Reports have been drawn up as to how these rules were to be enforced ; and in fact everything has been done but to supply the funds with which these rules and suggestions were to be given practical effect to."

" I then go on to state :—" Nothing had really come out of it of any practical sanitary good."

" I then refer to the import of some wool from a plague-stricken area in the Persian Gulf, and I described what had to be done, and I go on to write :—" The immediate necessity for a strict

supervision of vessels coming from the Persian Gulf was earnestly urged on Government, and in July 1876, a notification was issued laying down certain rules in reference to quarantine, but as no establishment was provided to enforce these rules, they might as well have never been promulgated."

"I then proceeded to discuss, the sanitary provisions necessary for the protection of the city, and I wrote :—'Their enforcement is contingent and dependent on three things, *i. e.*, hospital accommodation, the maintenance of special vehicles, and disinfecting apparatus ; unless that these three indispensable conditions are satisfied, the special sanitary clauses, no matter how perfect they may be, will remain a dead letter."

The following note about Dr. Yersin's arrival in Bombay was submitted for the information of the Corporation :—

"Dr Yersin arrived this morning at Bombay. He is sent here by the institute Pasteur at Paris in order to repeat on a larger scale the successful experiments carried out by him last year in China, by the agency of serum, against the plague. Dr. Yersin will work at his own expense all the inoculation which he undertakes. No charge will be made. He will put himself willingly at the disposal of the Municipality and public of Bombay in order that those who desire to do so may try his treatment. All that concerns the technical preparation of the serum and first results of the treatment of the plague with this serum were published in the *Annals of Pasteur Institute*, a scientific journal dedicated specially to the bacteriologic works (years 1894, 1895, 1896 and 1897). Dr. Yersin has for his aim : 1st—To treat with his serum declared cases of plague in order to demonstrate the efficacy of the new medicine. It is necessary for the success of the treatment that the disease should be treated at its commencement. The longer the disease has lasted, the more difficult it is to deal with. However in any case the treatment is innocuous. 2nd—In houses where plague exists Dr. Yersin can inoculate those who are inclined to try the influence of the preventive serum. He will also inoculate native practitioners and their staff infirmaries or any European doctors who apply to him. The injection of the serum is not more painful than a subcutaneous injection of pure water ; it causes no uneasiness, fever, or abscess. The patients have not to follow any special treatment or diet. The length of the immunization acquired by the injection of serum is about a month ; after the lapse of this time, a fresh injection should be applied for with the object of renewing the period of immunization. The serum prepared by Dr. Yersin does not contain any microbe or any poisonous substance ; it is therefore absolutely harmless.—Bombay 5th March 1897."

Dr. Yersin's
arrival in
Bombay.

Professor Haffkine, the eminent bacteriologist was deputed by the Government of India, who after investigation pronounced the disease to be true plague. He

Professor
Haffkine's ino-
culation aga-
inst plague.

prepared a serum which has extensively been used for inoculation against plague.

The following statement shows the number of persons, by class, inoculated against plague during the year 1898 :—

Brahmins	...	...	...	1,022
Jains	...	...	...	261
High caste Hindus	...	...	...	8,440
Low caste Hindus	...	...	...	7,050
Mussalmen	...	...	...	7,983
Parsees	...	...	...	6,190
Jews	...	...	...	184
Europeans	...	...	...	107
Eurasians	...	...	...	29
Indians	...	...	...	995
Other Nationalities	...	...	...	218
Unclassified Hindus	...	...	...	573

Total... 27,887

Professor Haffkine one day inoculated 45 people, 22 of whom were women. A system of payment to the poor at the time of inoculation led to a great number of inoculations. It was afterwards considered necessary to discontinue payments.

Professor
Lustig's Cura-
tive Plague
Serum.

The following letter to the President, dated the 22nd May, 1902 from Dr. A. Mayr, M. D., for Dr. Palverini and self was considered by the Standing Committee on 28th May 1902.

“ In forwarding to you the accompanying copy of a communication addressed by us to the Municipal Commissioner for the City of Bombay, we have the honour to express to the Municipal Corporation of Bombay our best thanks for their Resolution No. 919 of 8th May, 1899, which has been instrumental in affording us the necessary opportunities for observation and experiment with Professor Lustig's Curative Plague Serum. We regret that its preparation is to be altogether abandoned at Bombay, which will be a loss to science and the world at large, and beg to express the hope that the Corporation would be pleased to see their way to continue further investigations on the subject, though on a reduced scale.”

The Hon. Sir Bhalchandra Krishna Bhatawadekar said that the Corporation had, on the motion of the Hon. Mr. Melta, some time ago, resolved that they were of opinion that the experiments in connection with Lustig's curative plague serum should be continued for a longer period, and since the passing of that resolution there was no other resolution on record recommending the abandonment of the preparation of the serum.

The Hon. Mr. Ibrahim Rahimtula observed that in accordance with the provisions of the Act the Municipal Commissioner had absolute power to act in any manner he pleased in the matter, It might or might not be desirable to discontinue the preparation of the serum, but it was entirely in the power of the Commissioner to do one thing or the other.

Sir Bhalchandra said his second point was that there was no report received from the Commissioner informing the Corporation that he proposed to discontinue the preparation of the serum.

He (the speaker) was in favour of continuing the experiments in the interest of science.

The Commissioner (Mr. W. D. Sheppard) remarked that it was not desirable to continue the experiments in the interest of science at the expense of the Municipality.

Sir Bhalchandra: It may be continued in the interest of science. Continuing he said he was quite prepared to support his recommendation by facts and figures, but he might not take up the time of the Committee by entering into the scientific aspect of the question. He was quite prepared to prove that Lustig's serum had done a great deal of good. Government having withdrawn their support it behoved the Municipality to undertake the experiments, at their own expense and place it on the line of experiments conducted in the case of Haffkine's prophelactic serum. The question affected the whole of the Indian Empire and it was certainly desirable to continue the experiments even on a smaller scale.

The Chairman (Mr. James MacDonald) thought it was exceedingly unwise to stop the experiments. It would be very advisable to obtain some statement from the Health Officer before taking any steps in the matter.

Dr. Katrak said so far as the statistics supplied to the Corporation were concerned they gave a roseate picture of these experiments. There must be some good and valid reasons why the experiments were proposed to be discontinued, without giving any intimation to the Corporation. It was hopeless to expect any phenomenal results from the use of the serum, but if it was shown that even five per cent. of those who were treated with the serum recovered, the experiments were worth continuing. He proposed the matter should be referred to the Commissioner for favour of his report, stating what were his reasons which induced him to discontinue the preparation, and informing them what expenditure would have to be incurred for the preparation of the serum in future.

Sir Bhalchandra Krishna seconded the proposition.

Mr. S. D. Khote enquired if the experiments were to be carried on from year to year at the expense of the rate payers only.

The Municipal Commissioner explained as to why Government had withdrawn their aid, and why he proposed to shut up the laboratory at the end of the year.

The Hon. Mr. Ibrahim said he had carefully studied the statistics and he came to the conclusion that it was no use spending about thirty or forty thousand rupees per annum for the purpose. If it was proved that even half a dozen lives were saved by the use of the serum the experiments might be continued. But such did not appear to be the case.

Sir Bhalchandra quoted some figures showing that some lives had been saved by the use of the serum.

After further discussion Dr. Katrak's proposition to refer the matter to the Municipal Commissioner was adopted.

The following statement shows by sections the average yearly mortality and the actual mortality for 3 years from 1st June 1896 to 31st May 1899 together with the death rate per mille.

Ward &c.	Sections.	Average.	Actual Mortality.		
		Mortality for 5 years from 1891.	1896-7.	1897-8.	1898-9.
A.	Upper Colaba ...	114	164	131	135
	Middle and Lower Colaba ...	337	670	804	873
	Fort, Southern ...	29	37	25	12
	Fort, Northern ...	931	1,316	2,025	1,507
	Esplanade ...	167	143	254	446
B.	Mandvi ...	1,455	2,422	2,364	2,794
	Chukla ...	1,269	1,910	2,255	1,921
	Umerkhadi ...	2,113	3,458	3,524	3,766
	Dongri ...	1,165	1,820	2,142	2,461
C.	Market ...	1,140	1,503	2,168	1,898
	Dhobi Talao ...	1,297	2,171	2,590	1,874
	Fanaswadi ...	555	870	1,127	1,000
	Bhuleshwar ...	1,181	1,846	2,286	2,029
	Khara Talao ...	1,125	1,773	2,048	2,010
	Khumburwada ...	1,152	1,599	2,369	2,729
D.	Khetwadi ...	784	1,349	1,780	1,954
	Girgaum ...	965	1,577	1,999	1,782
	Chowpati ...	201	335	423	395
	Walkeshwar ...	236	437	253	307
	Mahalaxmi ...	280	578	500	631
E.	Mazagon ...	998	2,071	2,336	2,386
	Tarwadi ...	522	937	1,105	1,516
	2nd Nagpada ...	938	1,725	2,132	1,853
	Kamathipura ...	1,370	2,753	3,272	2,668
	Tardeo ...	781	1,394	1,636	1,723
	Byculla ...	1,667	2,415	4,804	4,686
	1st Nagpada ...	393	608	738	798
F.	Parel ...	1,217	1,932	2,727	2,705
	Sewri ...	180	430	295	464
	Sion ...	446	1,197	872	935
G.	Mahim ...	587	1,666	1,234	2,086
	Worli ...	569	1,543	1,143	2,030
	Water Division ...	70	55	83	61
	Non resident & Unknown ...	615	2,492	2,283	892
	Total ...	26,849	48,496	55,727	55,327
	Mortality per Mille...	31.58	69.28	70.54	65.09

The total number of rats destroyed in Bombay during 12 months ending 31st May 1899, was a little over 2 lakhs.

Rats destroyed in Bombay.

The sums voted for plague purposes by the Corporation from time to time are noted below.

Plague expenditure.

Corporation Resolution No.	6736 of	5-10-96	Rs.	1,00,000
"	"	11131 "	21- 1-97	" 1,50,000
"	"	264 "	5- 4-97	" 3,00,000
"	"	" "	" "	" 3,00,000
"	"	1824 "	13- 5-97	" 2,00,000
"	"	3101 "	28- 6-97	" 2,00,000
"	"	4464 "	9- 8-97	" 3,00,000
"	"	7248 "	4-11-97	" 3,00,000
"	"	9823 "	13- 1-98	" 3,00,000
"	"	11391 "	21- 2-98	" 1,00,000
"	"	11925 "	10- 3-98	" 1,50,000
"	"	12653 "	28- 3-98	" 1,00,000
"	"	440 "	14- 4-98	" 2,50,000
"	"	1192 "	5- 5-98	" 2,50,000
"	"	2098 "	9- 6-98	" 3,50,000
"	"	6047 "	3-10-98	" 2,50,000
Total ...				Rs. 36,00,000

Total expenditure on a/c of Plague upto :—

	31-3-98	Rs. 24,76,616-2-9
"	" 31-3-99	" 35,32,408-4-6
"	" 31-3-00	" 43,97,313-3-8
"	" from the Commencement to the 31-3-1901,	aggregated Rs. 50,77,738-7-4.

In 1898-99 a provisional grant of Rs. 14½ lakhs was received from Government.

The policy inaugurated by Government during 1898-1899 was continued during the two following years : a sum of Rs. 1,50,000 was contributed by Government for the construction of Health Camps. Government also contributed a sum of Rs. 20,000 on a/c of discretionary relief to the poor stricken with plague.

Government contribution towards Health Camps &c.

On the 14th December 1899, at a Corporation Meeting, Mr. Hormusji Shapurji Vakil moved :—

"That the Corporation is of opinion that the execution of the notices served upon the owners or occupiers of houses in Bombay by the Municipal Commissioner for the so-called improvements thereof, and the issue of fur-

Improvement of Houses.

ther notices of similar nature be stayed, until the result of the Resolution passed by the Corporation on the 23rd November 1899, as to the survey of the whole City is submitted to, and considered by the Corporation."

The motion was seconded by Mr. Sarafalli Mamuji.

On a division, the votes were 13 for and 21 against. *Lost.*

A poll was demanded by Messrs. Kharshedji N. Wadya, Sarafali Mamuji, Dinsha B. Master and Munmohandas Ramji.

The result of the Poll was as follows :—For 14. Against 24. *Lost.*

House In-
spection staff
grant disallow-
ed.

The Corporation at their meeting held on 15th January 1900 reduced the budget grant for plague expenses, by Rs. 37,860; this amount no doubt represented the cost of the establishment of the House Inspection Staff.

At an adjourned meeting of the Corporation held on 19th April 1900, the Hon'ble Mr. Ibrahim Rahimtula asked for and obtained priority, by the casting vote of the President, to the following notice of motion from him :—

Reconsidera-
tion of the
question of
allowing the
House Inspec-
tion Staff
Grant.

"That in view of Government Notification in the General Department No. ⁸⁷⁰/₃₄₅ P of 17th February 1897, issued under the provisions of the Epidemic Diseases Act, and the great desirability of effecting improvements in the insanitary houses in the City, the Corporation, on reconsideration, do not think it desirable to stop the expenditure on the House Improvement Department of the Municipality.

"That the Municipal Commissioner be informed that he may defray the cost of the House Improvement Establishment out of the Plague grant sanctioned in the Budget Estimate of the current year, and he be requested to submit proposals through the Standing Committee for increasing the Plague Grant, if on account of this charge it be found insufficient."

Mr. Rustam K. R. Kama raised the point of order whether, having regard to the provisions of Section 131 of the Municipal Act, the motion was in order inasmuch as there was no recommendation of the Standing Committee for an increase or an additional Budget grant before the Corporation, as contemplated by that section.

After discussion, the President ruled the notice of motion to be out of order.

At the meeting of the Standing Committee the following letter from the Municipal Commissioner was considered:—

No 1241 OF 1900-1901.

MUNICIPAL COMMISSIONER'S OFFICE,

BOMBAY, 21st April 1900.

FROM W. L. HARVEY, Esq., I. C. S.,

Municipal Commissioner for the City of Bombay,

TO THE MUNICIPAL SECRETARY.

SIR,—I have the honour to address the Corporation on the subject of their Resolution No. 10741, dated 15th January 1900, in which it was decided that the sum provided in the Budget for 1900-1901, for plague expenses, should be reduced by Rs. 37,860, this amount being assumed to represent the cost of the House Inspection Staff, though no entry to that effect had been made in the Draft Budget. It is within the knowledge of the Corporation that in the year 1897, a system of house inspection was instituted under the orders of Government passed under the Epidemic Diseases Act with a view to ensure that houses, which were defective from a sanitary point of view, should be vacated or that the defects should be remedied. The charges on this account have been debited to the grants made by the Corporation from time to time for expenditure on plague measures. Since August 1899, this subject seems to have attracted a good deal of attention in the Corporation, and at the request of that body I furnished a report on the work done and forwarded a copy of the rules drawn up for the guidance of the staff. On the 14th December 1899, a motion was brought forward asking the Corporation to record the opinion that improvement notices served on house-owners should be stayed and the issue of further notices discontinued, pending the completion of a sanitary survey of the City, which the improvement Trust were expected to undertake. This motion was defeated by 24 votes against 14. In the succeeding month, however, the Resolution to which I have already referred was passed, the intention being that the Corporation should decline to provide funds for the continuance of the work in the year 1900-1901. On the 22nd January, a week after the resolution was passed, the Corporation in their Resolution Nos. 11163 and 11164, appointed two Committees to consider whether the Inspection rules could not be modified, and whether some measures could not be devised to assist the poorer house-owners on whom the cost of repairs might press heavily. Again in Resolution No. 11945 of the 5th February, the Corporation invited my attention to the ill-ventilated and generally insanitary condition of certain chawls, and enquired what steps would be taken to improve them. It is clear from the above instances that the sense of the Corporation has, except on one occasion, been in favour of the continuance of house inspection operations and they are aware that I hold very strong opinions to the same

effect. As three months have now elapsed since the Resolution of the 15th January was passed, I would ask the Corporation to reconsider the whole question and decide whether they will provide funds for the cost of the work during the current year. This can be met from the lump sum of Rs. 7,62,140 entered at page 95 of the Budget for plague expenses, and no increase in the Budget grant is required at present.—I have, &c.,

W. L. HARVEY,
Municipal Commissioner.

The Standing Committee thereupon recommended the Corporation to increase the Budget grant by Rs. 37,860.

On a requisition signed by four members of the Standing Committee (H. Kennedy Esq., Fazulbhoy Visram Esq. C. I. E., Mulji B. Barbhaya Esq., George Lund Esq.) the Acting Municipal Secretary Mr. L. W. Michael, by order of the President, the Hon'ble Mr. C. T. Burke, convened a meeting of urgency at which this question was considered.

At this meeting it was proposed by the Hon'ble Mr. Pherozeshah M. Mehta, C. I. E., seconded by the Hon'ble Mr. Ibrahim Rahimtoola—

“ That, with reference to letter No. 1241, dated 21st April 1900, from the Commissioner to the Secretary and as recommended by the Standing Committee in their resolution No. 974, dated 25th April 1900, sanction be given to a budget grant for Plague Expenses for the current year of Rs. 37,860 to be met by an advance from Surplus Loan and other balances pending final adjustment without any such restriction as contained in resolution of the Corporation No. 10741, dated 15th January 1900.”

First Amendment proposed by Mr. Dinshaw B. Master, seconded by Mr. Sorabjee C. Dhondi—

“ That the consideration of the Standing Committee's Resolution No. 974, dated 25th April 1900, and the Commissioner's letter No. 1241, dated 21st April 1900, be postponed until the reports of the two Committees (1) appointed to report on the rules regarding the improvement of insanitary houses and (2) for lending assistance to poor house-owners, are submitted. That both these Committees be requested to expedite their reports.”

Second Amendment proposed by Mr. Jafarbhay Rahimtula, seconded by Mr. Hajee Yoosof Haji Ismail—

"That with reference to letter No. 1241, dated 21st April 1900, from the Commissioner to the Secretary and with reference to the Resolution of the Standing Committee, No. 974, dated 25th April 1900, sanction be given to a grant for Plague Expenses of Rs. 9,465 for the first three months of the current year to be met by an advance from surplus loan and other balances pending final adjustment, without any such restriction as contained in Resolution of the Corporation, No. 10741, dated the 15th January 1900.

2. "That the Committees (1) appointed to report on the rules regarding the improvement of insanitary houses and (2) for lending assistance to poor house-owners, be requested to expedite their respective reports."

Rider—now moved by Mr. Rustim K. R. Kama—

"That the Corporation trust that, as the measures for house improvement are likely to entail great hardship on many people, the Commissioner will represent to Government the necessity of carrying them out in as considerate a manner as possible."

This rider was accepted as a part of the original motion.

The second amendment was, with the permission of the President and the consent of the meeting, allowed to be *withdrawn*.

On a division, the first amendment was *lost*, the votes being 16 *for* and 23 *against*.

There were 27 votes *for* and 16 *against* the original motion, which was *carried* as under :—

"That with reference to letter No. 1241, dated 21st April 1900, from the Commissioner to the Secretary and as recommended by the Standing Committee in their Resolution No. 974, dated 25th April 1900, sanction be given to a budget grant for Plague Expenses for the current year of Rs. 37,860 to be met by an advance from Surplus Loan and other balances pending final adjustment, without any such restriction as contained in Resolution of the Corporation No. 10741, dated 15th January 1900.

"2. That the Corporation trust that, as the measures for house improvement are likely to entail great hardship on many people, the Commissioner will represent to Government the necessity of carrying them out in as considerate a manner as possible." (30-4-1900).

Debate re:
House inspection question.

An ordinary monthly meeting of the Municipal Corporation was held on 14th May 1900, the Hon. Mr. Burke presiding.

The Hon. Mr. Ibrahim Rahimtulla having asked for and been granted priority moved:—"That the President be requested to address Government pointing out that in the opinion of the Corporation it was highly desirable that the improvements of the most insanitary houses should be taken in hand first, and that improvement notices served upon owners whose houses were not very insanitary should be withdrawn for the present and to express a hope that Government would be pleased to give effect to the wishes of the Corporation herein expressed." He said that it was obvious from the discussion that took place the other day at the Corporation that there was a general consensus of opinion that very great hardship entailed upon the house-owners of Bombay by the wholesale inspection of their houses by the department specially organised for the purpose. The only way to minimise the hardship was, in the first instance, to grant money for the inspection, and then to approach Government, who might be apprised of the nature of the hardship, and requested to reduce it to its lowest limit. The Corporation had on the motion of the Hon. Mr. Mehta granted the money, and it behoved them now to go to Government and submit to them a representation on the lines indicated in his motion. During the late discussion it was pointed out that out of 9,000 houses 8,200 were declared insanitary showing that a very large percentage of houses already inspected were found defective from a sanitary point of view. But the defects varied in degree. There were certain houses which were most insanitary and there were others which were slightly insanitary. He was glad that the Corporation had recognised the principle that it was desirable to improve insanitary houses; but how they were to do it was the question. It transpired in the course of discussion that during the last three years about 1700 houses had been improved giving an average of 600 houses per year. What he suggested was that the city should be surveyed as a whole and the most insanitary houses only be inspected and picked out for improvement.

Mr. Hajl Usuf Haji Ismail seconded the proposition.

Dr. Dinshaw Bomonji Master said he was not quite sure whether it was necessary for the Corporation, to go to Government in regard to this matter, because he thought the Commissioner had sufficient discretion and power to take up first the most insanitary houses for improvement. The Government had not laid down any hard and fast rule for the inspection of all the houses in the city. Suggested that the Commissioner be called upon to say whether he could adopt the course advocated in the Hon. Mr. Ibrahim's proposition.

Mr. Kazi Kabirudin moved an amendment.—"That the President be requested to submit a memorial drawing the immediate

attention of the Government to the following request of the Corporation :—

“(1) That having regard to the strong feeling prevailing amongst the ratepayers of the City against the house inspection work, the Corporation hopes the Government would be pleased to direct its stoppage for the present. (2) That during the time this subject would be receiving attention, the Government would be pleased, to direct the Municipal Commissioner—(a) to withdraw the notices of improvement served on poor house-owners as well as on those whose houses were not very insanitary, (b) to take such insanitary houses only in hand as required improvement most urgently (c) and not to issue fresh notices upon house-owners except in urgent cases. (3) That in case the Government desires to continue this work then the Corporation confidently hopes that Government would direct the Municipal Commissioner to proceed against the insanitary houses according to such classification as the Committee of the Corporation, elected for the purpose, will make. Such Committee to consist of one member from each Ward of the City.” He said that the Hon’ble Mr. Ibrahim’s motion was good in itself, but was not sufficiently comprehensive. He was not opposed to the sanitary improvement of the city, but he submitted that the Commissioner should proceed in this matter more slowly than at present.

Mr. S. C. Dhondi, in seconding the amendment, remarked that he had great regard for the Hon’ble Mr. Mehta, who had been instrumental in restoring the budget grant for the house-inspection staff. Mr. Mehta’s powers of persuasion were very great and he could persuade the Corporation to pass any proposition that he brought before them. But he (the speaker) thought that knowing as he did that he could wield such a power it was all the more incumbent on Mr. Mehta to use that power for the benefit of the ratepayers.

Mr. Lund suggested that the word “withheld” should be substituted for the word “withdrawn” in the proposition of the Hon’ble Mr. Ibrahim.

Mr. Kabraji considered that the conditions embodied in the amendment were partly wrong in principle and partly impracticable. The Corporation would simply stultify themselves by passing the amendment.

The Hon’ble Mr. Mehta said it had been suggested most uncharitably that a good deal of discussion on this subject was actuated by a desire to provide against the rainy day, or to speak plainly against the election-day, which was approaching fast. He refused to believe that any member of the Corporation was actuated by such a feeling, although a great deal that appeared in the daily papers led one to think that there was something at the bottom of that uncharitable insinuation. Speaking on the

subject under discussion, he remarked that it appeared to him that some of the members used the word "ratepayers" very glibly. They put themselves forward as the representatives of the ratepayers, and spoke in the name of ratepayers. He would ask how many ratepayers were against house-inspection.

Mr. Kabraji : Only a dozen people attended the meeting of the ratepayers held the other day.

Mr. Dhondi : No about 300 persons were present at the meeting.

Mr. Mehta observed that even the number given by Mr. Dhondi was too small in comparison with the large number of ratepayers of the city. Continuing Mr. Mehta said it would be very difficult to distinguish poor house-owners, from rich ones, for he knew that there were many rich house-owners, who called themselves poor. He thought the best course for the Corporation to adopt was to appoint a committee for the purpose of drawing up a proper representation to Government. He then moved an amendment for the appointment of a committee to consider and draw up a representation to Government in consultation with the Commissioner on the subject of the improvement of the insanitary houses in the city under the Epidemic Diseases Act.

Mr. A. F. Unwalla, in seconding the amendment, remarked that one good result of appointing a committee would be that it would be able to invite the attention of the Government to the desirability of lending money to the poorest house-owners for improvement expenses. He thought that if they induced the Government to give a loan to the Corporation, and if the latter were to lend money to poor house-owners to be recovered subsequently in instalments, it would be conferring a great boon on them.

Dr. Ismail Janmahomed, in supporting Mr. Ibrahim's motion, remarked that the report should be expedited, because as long as these insanitary houses were not improved, plague would be hanging over the city.

Mr. Hajee Usuf supported the last speaker.

Dr. Katrak said that the two committees sitting in connection with certain sanitary measures might be asked to expedite their reports so as to enable the present committee to formulate their report as soon as practicable.

Mr. Kabraji hoped that the committee would carefully ascertain the number of poor house-owners, who were said to be so much oppressed on account of the proposed improvement in their houses.

Mr. Kazi Kabirudin and the Hon. Mr. Ibrahim having withdrawn their amendment and motion respectively, Mr. Mehta's amendment was put to the vote and carried.

The Committee submitted the following report.

REPORT OF THE COMMITTEE APPOINTED TO DRAW UP
A REPRESENTATION TO GOVERNMENT REGARDING IM-
PROVEMENTS OF INSANITARY HOUSES UNDER THE
EPIDEMIC DISEASES ACT.

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BOMBAY, 2nd August 1900.

The Committee appointed by Corporation Resolution No. 1949, dated the 14th May 1900, "to consider and draw up a representation to Government, in consultation with the Commissioner, on the subject of the improvement of insanitary houses under the Epidemic Diseases Act," beg to submit the accompanying draft representation for the approval of the Corporation.

2. It will be seen that this representation asks Government to issue such orders as will require the Commissioner to confine the work of effecting improvements to the *most* insanitary buildings of the whole City in the first instance. The Committee beg to point out that as the most insanitary houses would generally be houses owned by poor people, if Government grant the prayer of the representation, the result may possibly be that a large number of poor houseowners would be called upon to effect improvements, and until some satisfactory proposals are placed before Government and sanctioned by them for helping such house-owners by loans or otherwise, much hardship is likely to result. Since the accompanying representation was drafted, this Committee have learnt that the Committee appointed by Corporation Resolution No. 11164, dated the 22nd January 1900, to consider and report on the feasibility of advancing loans to poor houseowners, have formulated a scheme for helping this class of houseowners to carry out the requirements of the Epidemic Diseases Act, and have submitted their report to the Corporation. The Committee will, therefore, leave it to the Corporation to decide whether the representation herewith submitted should be forwarded to Government at once or after Government have passed orders on any proposals which the Corporation may submit to them for helping houseowners who have not sufficient means to improve their houses.

3. The Committee beg to state that the Commissioner does not concur in the recommendation contained in the draft representation as to suspending action on improvement notices already served upon houseowners whose houses are not "most insanitary." He thinks they should not be wholly suspended but might be *partly* so.

C. T. BURKE.

I have seen the Report—K. KABIRUDDIN.

IBRAHIM RAHIMTOOLA.

GEORGE LUND

DINSHA BOMANJI PESTONJI MASTER.

K. E. DADACHANJI.

ISMAIL JAN MOHAMED.

H. KENNEDY.

N. J. GAMADIA.

ARDESHIR F. UNWALLA.

HAJI YOOOOF HAJI ISMAIL.

P. M. MEHTA: (Note—I do not think the report deals adequately or practically with the matter in hand.—P. M. M.)

C. H. SETALVAD. (I agree with Mr. Mehta.)

DARASHA R. }

CHICHGUR. } (I agree with Mr. Mehta.)

The request that the most insanitary houses in the City should first be dealt with is a most reasonable request, but we cannot lose sight of the fact that bare compliance with it will aggravate the condition of the very class of houseowners whose inability to carry out the sanitary improvements, unaided, formed the subject of two Corporation Resolutions. Most of the "most insanitary" houses in the City are owned by poor people. Mr. Murzban, our Executive Engineer, who knows the City most intimately, bore testimony to this fact in a conversation I had with him on the subject.

It becomes absolutely necessary, therefore, that the above request to Government should be accompanied by another to empower the Corporation by a notification under the Epidemic Diseases Act, to carry out the necessary improvements and recover the expenses in the same or some such manner as is provided for in Sections 494 and 495 of the Municipal Act, III of 1888. I strongly pressed on the Committee the desirability of this course, failing which I suggested that the Committee should request the Corporation for its amalgamation with the Committee appointed by the Corporation Resolution No. 11164, dated the 22nd January 1900, to report on the feasibility of helping the poor houseowners to carry out the sanitary improvements. I also ventured to express the opinion at a meeting of the Committee that, considering that the Epidemic Diseases Act is a most elastic piece of legislation, a notification by Government under it would enable the Corporation to carry out this object, and thus render help to the poor owners. Very early in the consideration of the question I gave a notice of motion for the May meeting of the Corporation to the same effect. I now find that the Committee appointed by Corporation Resolution No. 11164 have been advised that the course suggested by me is feasible. It is needless to point out that the sanitary improvements in question are as important as (some of them more important than), the works, the expenses of which, under Sections 494 and 495, can be declared and recovered as improvement expenses. Had the framers of the Act at the time had any idea of the sanitary improvements enforceable under the Epidemic Diseases Act, there is no doubt that these too would have been included in the provisions of the above quoted sections. It, therefore, stands to reason that these expenses should also be recoverable in instalments of such amounts and at such intervals as will suffice to discharge such expenses, together with interest thereon at 5 per cent. within a period not exceeding thirty years. Five years, I think, would be too short a period. If the Corporation are of opinion that the interest should be charged at the rate of 6 per cent. as provided for in Section 495, that may be done.

The Corporation at my instance resolved, by Resolution No. 918, dated the 23rd April 1900, "That poor houseowners should be given all the facilities and benefits contemplated by

Section 494" in the matter of house connections, and I think strongly that the works of sanitary improvements should be similarly treated in the case of houseowners similarly circumstanced.

The draft representation, as it stands, should, therefore, in my opinion, be considered together with the Report of the Committee for helping the poor houseowners (Item 48 on the Agenda paper), and that one representation should embody both the recommendations as suggested in this minute.

ACCACIO G. VIEGAS.

24th August 1900.

Draft Representation.

FROM THE PRESIDENT,

BOMBAY MUNICIPAL CORPORATION.

TO THE SECRETARY TO GOVERNMENT,

General Department.

SIR,—I have the honour by desire of the Corporation, to bring to the notice of Government that, under Government Notification No. 870-345 P., General Department, dated 17th February 1897, issued under the Epidemic Diseases Act, the Municipal Commissioner is empowered to prohibit, by a written order, the further use of any building as a dwelling, if it shall appear to him that any such building, intended for or used as a dwelling, is unfit for human habitation.

2. In order to enforce improvements in houses from a sanitary standpoint, a set of rules was framed conjointly by the Municipal and Government Engineers, and these rules are now in force.

3. The house inspection establishment engaged by the Municipal Commissioner to give effect to the orders of Government, inspect all houses and condemn those which do not wholly answer the requirements of the rules referred to. The effect of this is, that 90 per cent. of the houses so inspected are found to be insanitary, and notices, under the signature of the Municipal Commissioner, are served upon the owners thereof, calling upon them to carry out the requisite improvements in order to render the building fit for use as a dwelling. The house inspection staff devotes much of its attention to enforcing notices so served. The Corporation, while fully recognising the great desirability of effecting improvements in insanitary houses, wish to invite the attention of Government to the fact that the procedure of inspection as referred to above, is not calculated to result in the greatest good to the health of the City; they are, therefore,

convinced that the work of effecting improvements in insanitary houses should in the first instance be confined to the most insanitary buildings of the whole City.

4. During the last three years that the work has been in progress, only 1,700 houses have been improved. This gives an average of a little less than 600 houses per annum. It may, perhaps, be contended that more than 600 houses could be improved in the course of the year. Even assuming that about a thousand houses could be improved within a year, it is in the opinion of the Corporation essential that these houses should be those of the most insanitary character in the City, as the improvement of such houses would confer relatively much greater benefit, from a sanitary point of view, than the improvement of a thousand houses varying in different degrees of insanitation. In order therefore to enable the department to concentrate all its attention on the most insanitary houses in the City, it is necessary that the notices of improvement, already served upon house owners whose houses are not very insanitary should not be acted on for the present.

5. It has been represented to the Corporation that the rules for the improvement of insanitary houses needed modification, and consequently a Committee has been appointed to report thereon and to obtain outside expert opinion should it be necessary to do so. These rules are now in course of consideration, and, when the modifications are finally completed and adopted will, no doubt, facilitate the improvements of houses with the least degree of hardship.

6. The Corporation, being anxious to urge on the improvement of insanitary houses have also appointed another Committee to report on the feasibility of advancing loans to the poorer classes of houseowners and recovering them by instalments, in the same manner as Section 495 of Bombay Municipal Act, III of 1888, empowers the recovery of improvement expenses by instalments. It is doubtful whether the Corporation have the power of declaring the cost of sanitary improvement as improvement expenses of a building, and when the Corporation finally decide this question, they will no doubt, if necessary, approach Government on the subject.

7. In conclusion I am to request that Government may be pleased to issue orders modifying notification of 870—345 P, dated 17th February 1897, in such a manner as will require the Municipal Commissioner to take in hand only the most insanitary houses, in the first instance, and to suspend action on the notices already served upon house owners whose houses are not so very insanitary until the work of the improvement of the most insanitary houses has been completed, and in this connection the Corporation desire that the work be gradual and progressive.

I have, &c.,

REPORT OF THE COMMITTEE OF THE CORPORATION ON
GIVING LOANS TO POOR HOUSE-OWNERS FOR IMPROVE-
MENTS UNDER THE EPIDEMIC DISEASES ACT.

BOMBAY, 25th July 1900.

The Committee appointed by Corporation Resolution, No. 11164,

* "That a Committee, composed of the President, Mr. Vithaldas Damoder Thakersey, Mr. C. T. Burke, Mr. Dinsha E. Wacha, Mr.

1. That the Corporation, while admitting the necessity of improving the insanitary houses of Bombay in the interest of the whole City, cannot but acknowledge that serious cases of hardship do occur amongst the poor house-owners by the notices of improvements served upon them under the Epidemic Diseases Act.

2. That it is further of opinion that, in order to lessen the hardships, it is desirable that some pecuniary loan for improvements be advanced to house-owners who are unable to carry out the required changes and to recover the same by instalments.

3. That the President be requested to forward to Government a copy of the above resolutions and to request them to consider the exceeding desirability of giving, at the discretion of the Commissioner, such help as may enable poor house-owners to carry out the improvements required by the Epidemic Diseases Act.

4. That the Commissioner be requested to report whether it is feasible to advance loans from Municipal Funds to house-owners who in his opinion, are themselves unable to carry out the improvements required by the Municipal Act, and to recover the same by instalments.

proposals therein made," beg to report that they are of opinion that serious hardship does occur among poor house-owners by the notices of improvement served upon them under the Epidemic Diseases Act, and that in order to mitigate this hardship it is desirable that pecuniary help should be given to them.

2. The question as to the best means of rendering such help has received the Committee's most careful consideration. They would have been glad if it was possible under the existing law to arrange for a procedure by which, with proper and adequate safeguards, advances could be given to the said class of house-owners at a reasonable rate of interest, for the purpose of enabling them to carry out by themselves the required improvements. Legal opinion, kindly obtained for the Committee by the Commissioner, is, however, to the effect that, under the law as it now stands, Government cannot empower the Corporation to advance money to any house-owner for the cost of improvements to his house, and that fresh legislation would be necessary to enable this to be done. To wait for legislation would mean considerable delay in a matter in which early action is desirable, and therefore the Committee's recommendation is necessarily confined to what is permissible under the existing law.

dated the 22nd January 1900, (quoted in the margin*) "to consider, in consultation with the Commissioner a motion placed before the Corporation by Mr. Vithaldas Damoder Thakersey and report on the feasibility of the pro-

Monmohandas Ramjee and Sir George Cotton, Kt., be appointed to consider, in consultation with the Commissioner, the marginally quoted motion (placed before the Corporation by Mr. Vithaldas Damoder Thakersey) and report on the feasibility of the proposals therein made,"

3. The Committee are advised that it is possible, under the Epidemic Diseases Act, for Government to empower the Commissioner to carry out the improvements and to recover the cost from the owner and to declare it to be a charge in favour of the Corporation on the premises, an agreement being taken from the owner, prior to undertaking any work, that he should pay the actual charges, *plus* the usual percentage for supervision, by fixed instalments and with interest at a rate to be fixed. The Committee approve of this procedure, the effect of which will be best understood from the accompanying draft notification. The usual percentage added for "Municipal Supervision" to the cost of labour and materials is 15 per cent. The Committee think that in this case the charge should be only $7\frac{1}{2}$ per cent. They recognize that this will not quite cover the actual cost, but they would at the same time urge that a little might be foregone in the interests of the poor, so as not to deter them from taking advantage of the facility proposed for them. The amount advanced should be recoverable in five years, and the rate of interest should be 5 per cent. per annum. If the work were to be done by the house-owners themselves and an advance made to them, the Committee would be in favour of fixing a higher rate of interest, so as not to tempt applications for assistance except from the really needy, but a rate which might be deterrent is not necessary when the improvement work is to be done by Municipal Agency and might therefore be expected to be more costly—which in itself would be a deterrent. As a necessary safeguard it should be provided that no improvement work costing more than Rs 3,000 as a maximum, or in any case costing more than the market value of the land on which the building to be improved stands, should be undertaken by the Commissioner, and that in the case of all leasehold properties the Commissioner should, before undertaking the work, insist upon the owner getting the property insured.

4. The conclusion to which the Committee have come on a full consideration of the matter referred to them is, therefore, that the best way under the existing law of helping poor house-owners who are required to improve their houses under the Epidemic Diseases Act, but have not the requisite means, would be as indicated in para. 9 of this report, and they accordingly recommend the Corporation to address Government with a view to their issuing the necessary notification to give legal sanction to the arrangement desired.

C. T. BURKE.

VITHALDAS DAMODHER THACKERSEY.

MUNMOHANDAS RAMJI.

D. E. WACHA.

Draft Notification.

WHEREAS certain parts of India are visited by, and others threatened with, an outbreak of dangerous epidemic disease known as plague; AND WHEREAS the Governor-General in

Council in exercise of powers conferred by Sub-Section (3) of Section 2 of the Epidemic Diseases Act, 1897, has been pleased to direct that the powers conferred by the said Act may, within the Presidency of Bombay, be exercised by the Governor of Bombay in Council; AND WHEREAS the Governor in Council thinks that the ordinary provisions of the law for the time being in force are insufficient to prevent the spread of this disease, and that measures are necessary for facilitating the prompt and effectual execution in certain cases of works requisite for the sanitary improvement of buildings which have been or may hereafter be dealt with by the Municipal Commissioner (hereinafter called the Commissioner), under the powers in that behalf vested in him by Section 1 of Government Notification No. 228-P, dated the 10th day of February 1897, and by Government Notification No. 2675-3027-P, dated the 10th day of May 1898, and of other buildings which, being intended for or used as dwellings may be considered by the Commissioner to be unfit for human habitation: NOW pursuant to and in exercise of the powers conferred as aforesaid, the Governor in Council is pleased to order as follows:—

1. The Commissioner is directed to continue the detailed survey and examination of buildings in the City, which has for some time past been carried on under his orders for the purpose of informing himself as to the sanitary conditions and requirements of all buildings intended for or used as dwellings and for the purposes aforesaid, he is authorized to entertain such staff as he may from time to time consider necessary.

2. In addition to the powers conferred on the Commissioner by the Government Notifications marginally specified, he may by written notice require the owner of any building intended for or used as a dwelling, which for any reason appears, or may hereafter appear, to him to be unfit for

Government Notification No. 228-P,
dated 10th February 1897.

Government Notification No. 4691-
3120-P, dated 30th August 1897.

Government Notification No. 2675-
3027-P, dated 10th May 1898.

Government Notification No. 4516-
4779-P, dated 12th August 1898.

human habitation, to commence and promptly and diligently carry on to completion the execution of all such structural or other works (to be specified in such notice) as shall appear to the Commissioner to be necessary for the purpose of improving the sanitary condition of such building and rendering the same fit for human habitation, and if in any such case the Commissioner shall be satisfied after such enquiry as he shall think necessary to make that the owner and other persons interested in the said building is or are not able to provide for the expenditure necessary for carrying out the structural or other works called for by such notice, he may, if he thinks fit, with the approval of the Standing Committee and at the request of the owner and other persons aforesaid and subject to his and their first entering into such

agreement as hereinafter provided, himself cause such works to be executed or such things to be done as shall, in his opinion, be necessary for commencing, carrying on or completing the execution of such works as aforesaid.

3. All expenses incurred by the Commissioner in carrying into effect any of the measures hereby authorized shall, in the first instance, be provided by the Commissioner out of the Municipal Fund, but in every case in which any such expenses are incurred in respect of the execution by the Commissioner under clause 2 of any work for the improvement of the sanitary condition of any building, such expenses shall constitute a charge in favour of the Municipal Corporation upon the premises of which such building forms part and in respect of which or for the benefit of which such expenses shall have been incurred and the Commissioner shall take an agreement from the owner and other persons interested in the said premises for the payment of the aggregate actual cost of the labour, materials and fittings to be employed and used in or about such work together with added thereto for Municipal supervision, by instalments of such amounts and at such intervals as will secure the payment of the whole amount due with interest thereon at the rate of per centum per annum, within a period of not more than years.

4. For the purpose of carrying into effect the measures here by directed and authorized, the Commissioner and his assistants and staff are empowered to exercise all such powers of entry upon any building or land as he or they can or may exercise under Section 488 of the Municipal Act aforesaid in order to make any inspection or survey or to execute any work authorized by the said last mentioned Act, or by any regulation or by-law framed thereunder, but subject always to restrictions similar to those presented by the said Section 488 as aforesaid.

At a Meeting of the Corporation held on 10th September 1900. Mr. Damodhar Vithaldas moved that the report on the subject of advancing loans be approved and adopted, and the Government be addressed in accordance with the recommendations made in it ; and that the other report be recorded.

Mr. Wadia seconded the proposition.

Dr. Viegas urged that the Government be asked to make provision for taking up the improvement of the worst houses first. He thought the period of five years fixed by the Committee for the repayment of the loans was too short and should be extended to 30 years. He moved an amendment accordingly, but it fell to the ground for want of a seconder.

Mr. Jafferbhoy Rahimtoola moved another amendment requesting Government to consider the advisability of withdrawing the various notifications issued under the Epidemic

Diseases Act, and in the event of their complying with the request the Commissioner be requested to carry out the work of improving insanitary houses under the provisions of the Municipal Act.

Mr. Haji Yoosuf Haji Ismail seconded.

The Hon'ble Mr. Mehta moved a second amendment that the President be requested to place before the Government reports of both the Committees, informing it that the Corporation found that great hardship was occasioned to houseowners in consequence of the proceedings under the Epidemic Diseases Act and requesting whether in view of the recent resolution of the Government of India on the report of the Plague Commission, the time had not come to reconsider and modify the policy hitherto followed in this respect in the city for the improvement of houses.

Sir Bhalchandra Krishna seconded the amendment.

Mr. James Macdonald declared that the result of passing the last amendment would simply be to put off necessary improvements still further.

The original motion and amendment having been withdrawn, Mr. Mehta's amendment was put to the vote and carried.

At the Meeting of the Corporation held on 22nd April 1901, the following letter from the Secretary to Government, General Department, to the President, was considered :—"I am directed to acknowledge the receipt of your predecessor's letter, dated the 12th September last, relative to the improvement of insanitary houses under the Epidemic Diseases' Act. With that letter are enclosed copies of the Reports made to the Corporation by two Committees appointed by them (1) to report on a proposal to advance loans to such poor house-owners as are required under the Epidemic Diseases' Act to make improvements in their insanitary houses, and (2) to draw up a representation to Government on the subject of the improvement of insanitary houses under the Epidemic Diseases' Act. Government are not, however, informed of the opinion of the Corporation on the proposals made by these Committees, but an inquiry is made as to whether the time has not now come especially in view of the resolution of the Government of India on the Report of the Plague Commission, to reconsider and modify the policy hitherto followed in respect to the Improvement of Insanitary houses in the City. I am to state that His Excellency the Governor in Council is of opinion that the question put must be answered in the negative. There is nothing in the resolution of the Government of India which affects the subject of improving insanitary houses. That resolution deals with measures for the suppression of existing plague. The structural improvement of insanitary houses is a measure rather of prevention than of suppression, and if conducted properly can scarcely be carried

Government
reply to Cor-
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re : Improve-
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Poor Rate-
payers.

too far. In existing circumstances, it cannot in the opinion of the Governor in Council, be relaxed unless the attempt to keep the City permanently free of plague is abandoned. I am further to remark that in the absence of any satisfactory building by-laws rules under the Epidemic Diseases' Act appear to be the only means of ensuring the observance of sanitary principles in house construction. As regards the proposal made by the Committee appointed by the Corporation Resolution No. 11164, dated the 22nd January 1900, to the effect that Government should empower the Municipal Commissioner to carry out improvements and to recover the cost from the owner, I am to state that Government are prepared to direct that expenses incurred by the Municipal Commissioner in giving effect to the sanitary alterations of houses under the Epidemic Diseases' Act shall be defrayed in the same manner as Improvement expenses under Section 495 of the City of Bombay Municipal Act, and will issue orders accordingly on receipt of definite proposals to that effect from the Municipal Commissioner."

Mr. P. M. Mehta moved that the letter of Government be recorded. He said that he would have liked to see one of those gentlemen, who used to say that people had to put up with great hardships on account of the Epidemic Diseases Act, take up the matter. The Corporation sent representations to the Government from time to time with regard to the working, of the Epidemic Diseases' Act, and especially with regard to the improvement of houses. Various suggestions were made to the Government with regard to the rules adopted for the improvement of houses. But the Government now said that it was impossible to accept the suggestions.

Mr. Kaji Kabirudin seconded the proposition.

Mr. K. N. Wadia said that not much good had resulted out of the measures taken to improve insanitary houses. They had several instances of houses in which no plague cases had occurred before making improvements in them, while after the improvements in them several plague cases were detected.

Mr. Hormasji Vakil said that it was a pity that Government did not see its way to comply with the wishes or suggestions of the Corporation. It was an admitted fact even by the executive officers that though many lacs of rupees had been spent for the suppression of plague, no good whatever was effected by incurring so much expense. The Commissioner was asked by the Government to carry out a certain policy with regard to the plague. It could not at present be decided by the Corporation whether it was competent for the Commissioner to carry out that policy. But as Government had turned a deaf ear to the appeal of the people, there was now only one alternative left to them. As Mr. Mehta had suggested previously, they should take a test case to the Court, (Mr. Mehta: Hear, hear). That was the last remedy left open to the people, who were distressed

and who found that no heed was paid to their appeals. He wanted to draw the attention of the Corporation to a certain thing. They sent the representation about the matter to the Government in August last. Now the date of the resolution was 29th March, when the Governor had left Bombay. That showed that Government resolutions were sometimes drawn up even by a single official. The speaker regretted to find that the appeal by the Corporation had not been met by the Government in that spirit in which it was expected it would have been met. The inspection of houses was not mentioned in the body of the Act but was simply a creation of the Government of Bombay. House inspection was not a part and parcel of the Act. They wished that Government had sent a more sympathetic resolution.

Mr. Manmohandas Ramji said that the measures adopted in respect to the suppression of the plague entailed much hardship on the people.

Mr. Jaffar Rahimtulla said that the Government seemed to base their whole case on the absence of satisfactory building bye-laws under the Municipal act. It was necessary that the building bye-laws should be such as to meet the circumstances of the City and the Committee appointed to consider these bye-laws should be asked to expedite their report. He moved as an amendment that the letter be recorded and that the Commissioner be requested to expedite the report asked for by Corporation resolution 4882 of the 24th August 1889.

Mr. Haji Yusuf Haji Ismail in seconding the amendment said the house improvement rules had not proved effective as plague had occurred frequently and virulently in houses that had been improved under the rules. They were coercing people without any real benefit.

Dr. Ismail Jan Mahomed did not see that any useful purpose would be served by the amendment. The better course would be to record the letter and that it be sent to a new committee which he heard Dr. Dinsha was going to propose.

Dr. Dinsha Master proposed that the matter be referred to a committee to be composed of gentlemen whom he named.

Mr. Lund who was one of those whose names were proposed for the Committee asked that his name should be withdrawn. He was so distinctly in favour, in the interests of the City, of what Government said that he would rather be an incumbrance than an assistance to the Committee.

Dr. Jehangir J. Cursetjee seconded Dr. Dinshaw's amendment.

Dr. Sukia said that in certain cases plague had appeared after the so-called improvements where there had not previously been plague. The present building by-laws were stringent enough and if they made them more stringent they would not improve the health of the City unless they improved the drainage, the quality of the water supply and by proper supervision prevented the adulteration of food.

Mr. Jaffer Rahimtula withdrew his amendment.

Mr. Mehta in replying on the debate said that even Mr. Lund would see that the way Government now dealt with the matter raised a very serious question indeed. He had been consistent in urging that they should go on with the improvement of houses under the Epidemic Diseases Act. He was in favour of it as a measure in the present critical condition of the City for the purpose of meeting temporarily the ravages of plague. But Government now told them that 'the structural improvement of insanitary houses is a measure rather of prevention than of suppression and if conducted properly can scarcely be carried too far.' Did members realise what that meant? It meant that they must have another Improvement Trust running side by side with the City. The Improvement Trust which had been brought into existence at such an enormous expenditure. Government brought in the Improvement Trust Act for the purpose of permanently improving the City so that there might afterwards be no trace of plague. The provisions of that Act were to a certain extent for the purpose of not placing all the burden of Improvement upon individual house-owners. It was only fair that if the City is to be permanently improved the burden should not be cast simply upon individual houseowners, but upon the whole community. But Government now say that the permanent structural improvement at the expense of the houseowners could not be carried too far. The whole city might be improved in that way. For the purpose of preventing disease within the City structural improvements in every house will have to be carried out. If the suggestion of the Government were carried out by the Plague Commissioner they would have placed upon them a horrible machinery for the purpose of dealing with every house in the City. That could not be tolerated.

Mr. Lund: It is only insanitary houses, I take it.

Mr. Mehta: Insanitary quarters are to be improved by the Improvement Trust and only insanitary quarters.

Mr. Lund: The Improvement Trust cannot improve the whole of the City, but can only run a road here and there.

Mr. Mehta: I beg Mr. Lund's pardon. The Improvement Trust Act deals with the improvement of insanitary areas in every part of the City. If he understands that improvement to mean simply running streets he is very much mistaken. There were two ways of improvement under the Act, there were improvement schemes and street schemes. The street scheme took up whole areas and included the razing of houses and houses would be improved under the act. But side by side with that Government wanted that each house be taken up under the orders of the plague Commissioner for the purpose of structural improvements. If that was to be the idea of the improvement of insanitary houses under the Epidemic Diseases' Act it was a very serious matter for the house owners of the City. If that were necessary, then be

said that a system under which houses would be properly selected should be introduced. The matter must not be left to the discretion of an individual officer going into a house and saying that it needs structural improvements.

Mr. Lund : I don't conceive that Government intend that.

Mr. MacDonald : It is the structural improvement of insanitary houses that cannot be carried too far. Insanitary houses not areas.

Mr. Lund : Not every house.

Mr. Mehta : Who is to determine whether a house is sanitary or insanitary ?

Mr. MacDonald : Our officers.

Mr. Mehta : Exactly. That means simply that an Inspector goes and says "This house is insanitary." The Executive Engineer may or may not go to see it. And because one individual, a Sanitary Inspector, by no means an expert, says that a house is insanitary then it has to be altered structurally. That means that for every little thing which may be somewhat insanitary expenditure to the extent of half the value of the house may be required for structural improvements.

In reply to Mr. MacDonald, Mr. Mehta said that at present under the Epidemic Diseases' Act they were only dealing with the worst cases among insanitary houses. If the improvement was to be done on a large scale it must be done by the Improvement Trust at the expense of the whole City. It would be ruinous to individual houseowners to require them to improve houses in that way because a Sanitary Officer or the Municipal Commissioner thinks that houses are insanitary. He had realised that the Sanitary Inspectors did go about finding that a wall should be this or a partition should be there and giving orders for structural alterations. Huts and hovels might be dealt with in that way and even to a certain extent "pukka" built structures, but if they were going to have their work running parallel with that of the Improvement Trust it would be ruinous to house owners in the City.

Mr. MacDonald : I quite agree with you in that.

Mr. Mehta then withdrew his original motion to simply record the Commissioner's letters and Dr. Dinsha's motion referring the matter to a Committee was adopted.

An adjourned meeting of the Municipal Corporation was held on 27th June 1901 Mr. D. E. Wacha presiding.

The Corporation considered the following letter from the Commissioner :—" With reference to the Corporation Resolution of the 29th ultimo. I have the honour to state that the number of Government and Port Trust buildings, examined under the Epidemic Diseases' Act is 21. This number includes seven blocks in premises Nos. 628, Duncan Road, in charge of Government, for the improvement of all of which only one notice has been

Improve-
ment of Go-
vernment and
Port Trust
buildings.

issued, as all the blocks are alike. The number of buildings requiring improvement is, 11. Four notices have been served on Government and the Port Trust, out of which three have been complied with. As regards the fourth notice, it refers to the seven blocks above referred to. All the improvement requisitions have been carried out in six blocks. As regards the barracks located in the City for native soldiers, I have the honour to state that they are not fit for human habitation according to the strict interpretation of recent rules framed under the Epidemic Diseases' Act. They require certain alterations, chiefly provision of proper means of ventilation and perfusion of air. The evils of these defects are, the Acting Executive Engineer reports, to a great extent nullified by the chawls being only groundfloor buildings and having large open areas around them. No notices have been served for their improvement, as at present action is limited to the most insanitary houses in the City. In connection with this subject it may be mentioned that certain buildings on the Marine Lines were demolished by Government on a requisition from the Municipality."

Dr. Dinshaw Master moved that the letter be recorded and that in view of the Commissioner's expressed opinion that the barracks for Native soldiers are unfit for human habitation the Corporation regrets that no notices have yet been served for their improvement. Under the circumstances the Corporation are of opinion that the early attention of Government should be drawn to these barracks for their improvement according to the Epidemic Diseases Act. This report, he said, reflected a sad state of things for the poor rate payers of the City. While thousands of notices had been served on the ratepayers, only four notices had been served on Government and only 21 buildings had been examined. Why had they not served notices on Government to improve the very insanitary barracks for native soldiers? As to the demolition of certain buildings in the Marine Lines he denied that they had been pulled down at the instance of the Municipality. Before plague broke out the Military Officers were clamouring for the demolition of the buildings and when a few cases of plague occurred in the servants' quarters advantage was taken of that to remove the buildings. The report showed that in the administration of the Epidemic Diseases Act there was one rule for the Government and another for the poor ratepayers.

Dr. Jehangir J. Cursetjee said that no amount of improvement of these barracks would be satisfactory unless they were razed to the ground and rebuilt.

Mr. Shroff said that to call these structures barracks was entirely a misnomer. These black holes in which the native soldiers had been lodged for half a century were simply disgraceful. For fifteen years they had been allowed to stand as at present and when they compared this with the "zoolum" practiced on poor householders the less they said the better.

Mr. Hormusji Vakil said the report justified the complaints brought forward by some of them in regard to the administration of the Epidemic Diseases' Act. There were two sorts of administration, one for the poor ratepayers and the other for high officials of Government. The position of the Commissioner in this matter was very unenviable. On the one hand he has to protect the interest of the Municipality and the ratepayers, and on the other hand he was a servant of Government upon whom his position and promotion depend. But in spite of these drawbacks he had brought forward this report.

Dr. Sukhia said the Epidemic Diseases' Act had brought about the ruin of several ratepayers who had to sell their houses because they were not in a position to carry out the improvements required under the Act.

Mr. Haji Yusuf Haji Ismail thought the time had come when the poor houseowner should rejoice. It had been pointed out that action, under the Act was only taken in respect of houses that were considered the most insanitary. There were few places more insanitary than these barracks and if they were not to be improved they might take it that action in respect of other houses would be stopped.

Mr. Wadia said it was not only Government and the Port Trust who were favoured in carrying out the Act but there were certain chawls belonging to the B. B. and C. I. Railway which were still more insanitary. He would like to know why these big and influential bodies were treated in a different way from the rest of the City. The officers working under the Act seemed to wear very black spectacles when going about these localities; otherwise they would see the things to which attention was called. They could only harass the poor ratepayers. It was a shameful sort of affair.

The Hon. Mr. Mehta thought it was not right that remarks should be made such as Mr. Wadia used.

Mr. Wadia : They are justified.

Mr. Mehta said they all liked to go against the Government but it was not right to use such language as that—"it was a shameful affair." They had time after time complained of the working of the Epidemic Diseases Act, but it was useless to go on over and over again using the same woe-be-gone expression. The proper question was, had Government been served with notice. He asked Dr. Master to consider whether the proposition he had placed before the Corporation was a correct one. It was not right to take a few words from a sentence expressing the full opinion of the Commissioner and then say that his opinion was so and so. The Commissioner did not commit himself to the opinion that the buildings were unfit for human habitation, but "according to the strict interpretation of recent rules framed under the Epidemic Diseases Act" they were so. It was pointed out that the defects were nullified by the fact that there was a large open space adjoining the buildings and that

they were mostly ground floor ~~chawls~~. These were points to be taken into consideration and showed that the buildings should be treated as those of private owners had been treated—left untouched because of circumstances which did not make them so bad as other buildings. They were now dealing only with the worst houses in the City. They had been telling Government that only the most insanitary houses should be touched and now the Corporation were invited to ask Government to remove buildings which were only unfit for human habitation in a qualified sense. The original object of Dr. Master was a sound one, because it was to turn the tables on Government by pointing out to them that they had not improved buildings unfit for human habitation in a qualified sense; and to point to this as proof that the rules under the Epidemic Diseases' Act were too strict. He moved as an amendment that the letter of the Commissioner be forwarded to the Committee appointed by a resolution in April to report on Government letter, General Department, relating to the improvement of houses under the Epidemic Diseases' Act.

Sir Bhalechandra Krishna seconded the amendment.

Mr. MacDonald said that charity should begin at home, and thought it would be a good thing if Mr. Wadia took off his black spectacles and walked around the chawls provided for the Corporation "bigaries" then he would see something which would keep him quiet.

Dr. Master withdrew his motion in favour of the amendment which was adopted.

House and
inspection ex-
penditure.
Statement of
Houses in-
spected.

The total expenditure incurred by the Municipality for maintaining the house inspection staff during three years (1898, 1899 and 1900) has been Rs. 89,826-14-11, and the work performed by them is shown in the following table:—

	Year ending June 1898.	Year ending June 1899.	Year ending June 1900.
Houses inspected	5,521	2,579	1,905
Flats inspected	15,515	7,088	5,467
Plans scrutinized	176	1,193	1,471
Houses demolished	77	97	147
Houses for which improvement notices issued	1,223	2,484	2,505
Houses in which improvements taken in hand	112	823	996
Houses, improvements of which com- pleted ... ..	...	32	612
Insanitary sheds demolished	109	178	66
Notices issued for overcrowding	37	99	118
Overcrowding abated ... ..	...	76	126
Statements prepared showing works necessary for improvement of licensed stables ... ..	...	...	46
Insanitary licensed stables improved ... ..	...	...	21

At their meeting held on 10th October 1901 the Corporation considered the following letter from Mr. W. D. Sheppard, the Municipal Commissioner.

"I have the honour to report, for the information of the Corporation, that Captain Pritchard, I. S. C., Personal Assistant to the Commissioner for Plague Operations, is proceeding on leave with effect from the 15th instant. I have decided not to indent on Government for any Military or other officer to take his place, and propose instead to carry on the Plague Administration with the active assistance and advice of the Executive Health Officer, Dr. Turner, under whose immediate orders the whole of the plague establishments will be placed, subject to my general control. The plague "policy" will continue as that at present laid down by the Government of Bombay. The object of my proposal, to which Government have intimated that they have no objection, is to prepare the way for an early amalgamation of the Plague and Health establishments, and in so doing to effect an early further decrease in the plague expenditure of the city. Ultimately I hope that the experience gained will demonstrate the desirability, if not the necessity, for plague being treated under the Municipal Act as an ordinary epidemic disease, and as such being properly dealt with by the head of the Health Department to the exclusion of any outside interference. I have the honour to inform you that I shall ask for urgency for the consideration of this letter at the Corporation meeting of Thursday, October 10th."

Amalgamation of the Plague and Health Departments.

On the motion of the Hon'ble Mr. P. M. Mehta C. I. E. the Corporation approved of the arrangement proposed by the Commissioner.

Movement of people during the plague of 1897-98.

Movement of the people during the Plague.

Month.	ARRIVALS.			DEPARTURES.		
	By rail.	By Road.	By Sea.	By rail.	By Road.	By Sea.
July 1897	...	1,02,058	87,513	10,893	1,11,105	81,188
August "	...	1,13,646	93,258	18,252	1,30,105	93,258
September "	...	1,23,526	1,20,968	45,825	1,50,885	1,17,153
October "	...	1,22,047	1,24,011	36,241	1,24,776	1,27,766
November "	...	88,649	1,06,113	38,122	1,03,024	1,05,581
December "	...	87,656	85,996	38,233	1,04,426	87,781
January 1898	...	69,579	59,823	14,538	93,518	60,794
February "	...	53,503	56,609	15,666	59,896	62,002
March "	...	66,296	61,849	19,977	61,523	61,849
April "	...	23,001	36,666	15,858	27,301	22,611

Total Arrivals.
19,46,022.

Departures.
20,93,392.

The Corporation at their meeting held on 7th October 1897 considered the following communication from Government :—

No. 5242 OF 1897.

GENERAL DEPARTMENT,

BOMBAY CASTLE, 28th September 1897.

From J. DE C. ATKINS, Esq, I.C.S., Secretary to Government,
To THE PRESIDENT OF THE MUNICIPAL

CORPORATION FOR THE CITY OF BOMBAY.

The City Improvement Trust.

SIR,—In an address to a deputation from the Chamber of Commerce last February, his Excellency the Governor referred to the urgent necessity for extensive sanitary improvements to the City of Bombay, more especially in respect to the removal of insanitary dwellings and the prevention of overcrowding, not only now, but in the future. His Excellency dwelt upon the evil of overcrowding as a premium on crime, misery, squalor and disease, and presaged as the outcome of the measures to be taken consequent on the dire outbreak of disease a healthier and still more prosperous and beautiful city.

2. Since the date of that address, the Governor in Council has given most careful consideration to the matter. He has been assisted by officers possessing great local and professional experience, and is now in a position to form a definite conclusion as to the essential requirements for, and the best means of, effectually and expeditiously carrying out the improvement of the City of Bombay. Any scheme to be effectual must be on a thoroughly comprehensive scale, and must provide not only for opening up crowded localities by the construction of new streets and acquiring frontages thereon for the erection of improved dwellings, and for the levelling up of low-lying areas, but also for improving existing insanitary dwellings and housing a very large number of the poorer classes in new sanitary dwellings to be let at an extremely low rate of rent. It must in addition provide room for the accommodation of the population to be displaced in the process of relieving congested areas, and lastly room for the future expansion of the city. The last purposes, I am to observe, can be secured by providing for the laying out and filling in, where necessary, of vacant lands to the north of the city and by the reclamation of areas west of Colaba and at Walkeshwar, these reclamations being most suitable for residences of a superior class, for which sites are in great demand.

3. The cost of a scheme of this comprehensive character will be very considerable, and that aspect of the question will, it is apprehended, be regarded by the Corporation as a very serious one. The balance of their borrowing powers will no more than suffice to meet the cost of essential sewerage and storm-water drainage schemes, extensions of the water-supply mains and other requirements of a more or less obligatory nature which are

incidental to the sound municipal administration of every large city. A scheme which will effectually remedy the serious evils referred to and render the city immune, as far as is sanitariously possible in these respects, from the devastation of epidemic attacks of disease is in fact as entirely beyond the financial means of the Corporation as it is outside the range of duties, for the discharge of which the provisions of the Bombay Municipal Act have been specifically designed and adapted. The Municipal Executive admittedly have a sufficiently burdensome task in administering the general affairs of the city, and it is felt that for the measures now in contemplation it is imperative, both for general management and prompt executive action, that there should be a special agency with a separate staff at liberty to devote their entire energies to the particular task before them.

4. The Governor in Council, I am to say, fully recognizes the success of Municipal administration in Bombay as exemplified, for instance, by the magnificent water-supply works which constitute an achievement of which any city might be proud, but he is of opinion that a scheme of the character now in contemplation, requiring persistent and long-sustained effort on systematic lines, involving so many varied purposes with the prospect of an almost infinite number of questions of detail both in management and execution, and in which, moreover, large proprietary interests of Government will be involved, is essentially one that should be entrusted to a small administrative body, with special powers to raise funds, acquire property and execute the necessary works.

5. The proposal which most commends itself to the Governor in Council to carry out the scheme, the main features of which are indicated in this letter, is that a Board of Trustees be constituted, on which the Corporation shall be strongly represented. It is intended that this Trust shall, in constitution and powers, very closely follow the lines on which the Port Trust was formed. In practical working that body has most deservedly earned cordial approbation, both official and public, and it may be said that there is a general feeling of confidence in this form of administration. The idea of such a Trust is not, I am told, a new one, a prominent precedent being the City of Glasgow Improvement Trust, which was constituted for similar purposes and has been most successful in its results.

6. Government, on their part, propose that the control of all vacant lands within municipal limits, which are the property of Government, shall, with a few exceptions, vest in the Trust; that the Trust shall administer such properties for the benefit of the rate-payers for a long term of years, subject to a charge representing an extremely low rate of interest on their present market value, which charge will accrue only after the lapse of ten years from the date of the transfer of the lands, and that the Government reclamation rights, west of Colaba and at Walkeshwar, shall also be vested in the Trust on similarly easy terms. It is

intended that the Trust shall have the enjoyment of rents from reclaimed areas free for the first twenty years, and thereafter subject to a charge representing a low rate of interest on the then market value of such areas *minus* the cost incurred in effecting their reclamation.

7. Similarly, it is proposed that the vacant municipal lands suitable for building purposes at Agripada on the Connaught Road north of the Victoria Gardens, and at Matunga, less any portions required for Municipal Departmental purposes, shall likewise be vested in the same Board of Trustees, to manage for the benefit of the rate-payers on terms similar in every respect to those on which the Government vacant lands are to be so vested. It may be here mentioned that the approximate value of the Government land to be transferred is Rs. 67 lakhs; that the present value of the reclamation rights is about Rs. 29 lakhs—total Rs. 96 lakhs; and that the approximate value of the Municipal lands is Rs. 28 lakhs.

	Rs.	
New streets opening out		Rs. 5 crores, but that managed and financed by a Board of Trustees constituted and endowed as proposed, it will involve an addition to the municipal rates of not more than 2 per cent. on the assessable value of the properties
crowded localities ...	2,70,00,000	
Reclamations ...	1,25,00,000	
Chawls for the poor ...	83,00,000	
Levelling and laying out vacant lands ...	17,00,000	
Total...	Rs. 4,95,00,000	

within municipal limits after taking into account, on the one hand, the receipts from rents of vacant Government and municipal lands and of reclaimed areas and the enhanced receipts which will accrue from municipal assessments on the new properties, and, on the other, the interest and sinking fund charges on loans, &c., the cost of administration and collection, and the maintenance and lighting of the extensive lengths of new streets. On the one hand, what is perhaps a favourable view is taken of the prospects of reclamations which will, however, be subject to the test of experience; on the other, the profits to be derived from the acquisition of frontages on the lines of new roads are entirely left out of account. These, in probably the larger number of cases, would be very considerable. As, however, this item may be regarded as a speculative one (notwithstanding past experience in Bombay and other large cities), the rough estimate is based on the assumption that, in the inhabited portions of the city, land sufficient only for the roadway is to be acquired, and purchases and sales of surplus frontage land are alike omitted from consideration. Should the results of reclamation prove less favourable than anticipated, it might be found desirable to restrict expenditure and consequent liability under that head.

This and the desirability of acquiring frontages along the lines of new streets are questions which must be left to the judgement of the Trustees, which they will exercise after careful investigation in each instance.

9. I am to say that the Governor in Council is satisfied as to the soundness of the scheme and regards it as the only effectual means of securing the improvement of insanitary areas in crowded localities and of providing for the necessary expansion of the city in a manner calculated to prevent such expansion from adding to, instead of removing, the difficulties that have now to be combated. The Government of India, with whom it rests to make the most valuable concessions regarding reclamations and vacant Crown lands, are, I am permitted to say, already prepared to regard with favour the general principles on which these proposals are based, and this Government are now engaged in formulating them in the shape of a legislative enactment. Whilst doing so, however, they desire to be favoured with the views and suggestions of the Corporation, who, his Excellency in Council is convinced, will be the first to recognise the importance of the object in view and of the advantages offered by Government. The Corporation will also doubtless recognize the desirability, in the interests of the city, of giving practical effect to any scheme of improvement with the least possible delay, especially having regard to the present local conditions, and as Government particularly wish to publish detailed proposals in the form of a Bill which may be dealt with in a Session of the Legislative Council at the close of this year, I am to ask that very early consideration may be given to this letter (which merely indicates the general outlines of the scheme) and that Government may be favoured with a reply before the end of the ensuing month.—I have, &c.,

J. DE C. ATKINS, Secretary to Government.

Proposed by Dinsha E. Wacha, Esq., seconded by Kaikhosru N. Bahadurji, Esq., M.D.—

“That the letter of Government, No. 5242, dated 28th September last, be *recorded*.

“That the Chairman be requested to acknowledge the same with thanks and inform Government that, while fully recognizing the desirability of the object to be attained by the scheme described in the letter and though ready to meet the wishes of Government in regard thereto, the Corporation are unable to express opinion or offer observation or suggestions regarding the financial and constitutional aspects of the scheme in the absence of details.

“That the Chairman be requested that, with a view to enable them to express their views definitely on the

scheme, the Corporation request that the Government will be pleased to favour them with a copy of the Draft Bill as soon as it is ready, together with a statement of its objects and reasons."

Amendment, proposed by G. W. Roughton, Esq., seconded by Sundernath D. Khote, Esq.,—

No. 6343. "That the Chairman be requested to acknowledge with thanks the receipt of the letter from Government, dated the 28th September 1897, and to state that, having considered the same, the Corporation are of opinion that the object indicated therein is desirable, but in the absence of any details as to how the matter is to be carried through, to whom the lands to be made over to the proposed Trust are eventually to belong, the time over which the proposed scheme is to extend, as to the proposed constitution of the Committee so far as the representation thereon of the Corporation is concerned, as to the powers of the Corporation, as to health, conservancy, water-supply, and as to other essential details of municipal administration over the lands to be vested in the proposed Trust, they feel constrained to ask for further and detailed information before giving an unqualified adherence to the scheme; more especially as a new body is proposed to be constituted which, if constituted—as to the expediency of which the Corporation do not now wish to commit themselves—apparently will, to some extent, conflict with, or take over, the powers now vested in the Municipality.

"That the Chairman be also requested to inform Government that they have appointed a small Committee who will meet without delay and formulate the points in which further information is required by the Corporation and that their report, if approved by the Corporation, which approval, there is no reason to suppose, cannot be obtained during the present monthly meeting or some adjournment thereof, will then be immediately submitted to Government.

"That the Chairman be requested meanwhile to ask Government to favour the Corporation with a draft of the proposed Bill and the statement of the objects and reasons therefor.

“That the following gentlemen, if willing to act, be nominated as members of the Committee referred to in para. 2 of the first portion of this resolution:—(1) the Hon’ble Dr. Bhalchandra; (2) the Hon’ble R. M. Sayani; (3) Ibrahim Rahimtoola, Esq.; (4) Dr. Cowasjee Hormusjee; (5) Dr. A. G. Viegas; (6) Dinsha E. Wacha, Esq.; (7) G. Lund, Esq.; (8) Sundernath D. Khote, Esq.; (9) Mulji B. Barbhaya, Esq.; (10) T. W. Cuffe, Esq.; (11) G. W. Roughton, Esq.; (12) the Hon’ble Mr. W. C. Hughes; (13) N. J. Gamadia, Esq.; (14) Dr. K. N. Bahadurji.”

With the permission of the Chairman and the consent of the meeting, Mr. Dinsha E. Wacha was allowed to withdraw his motion in favour of the amendment which was *carried* unanimously as a substantive proposition.

On the 10th February 1898, the Corporation on the motion of the Hon’ble Mr. Ibrahim Rahimtula formed itself into a Committee of the whole house and proceeded to consider the City Improvement Trust Bill in detail.

This Committee submitted a report* suggesting certain alterations in the proposed Bill, which report, the Corporation on 4th March 1898 adopted and requested the President to address Government in terms thereof.

At the Meeting of the Corporation held on 6th August 1900, the Hon’ble Mr. Mehta obtained priority for the consideration of a number of letters from Government and the City Improvement Trust on the subject of extending the period allowed to the Corporation for making representations to Government on the schemes of improvement prepared by the Trust, and on other matters relating to the operations of that body.

Mr. Mehta said the items before them required very careful consideration from the Corporation. He ventured to think that the time had now come when they should take a careful note of what had occurred between the Corporation and the improvement Trust consider the relations which somehow or other had come to exist between the two bodies, and see whether it was possible to take action for the purpose of placing both on a satisfactory footing. He had, taken the trouble to bring this matter before the Corporation, because he was firmly convinced that the questions involved in it were questions which would permanently affect the progress, the well-being and the financial solvency of the Corporation and of the City. It had been said and unfortunately it had been even hinted in the Corporation, that they were actuated by a feeling of jealousy in taking up the attitude they had taken towards the Improvement Trust.

* See page 581. Corporation Record, Vol. XXI for 1897-98:

It seemed to him that a recollection of a few facts would enable everybody to come to the opinion that such a motive was not likely to influence the Corporation. He would remind them, that when a proposal to found a Trust for the sanitary improvement of the City of Bombay was first launched, and when the scheme was sent by Government to the Corporation for its opinion, though it looked as if there was to be a curtailment of their powers to a certain extent, they received the scheme with cordiality and gave their approval to it by a large majority. It was in no jealous or grudging spirit that the Corporation replied to the Government approving of the principles on which the Trust was based. The same spirit guided him, as the representative of the Corporation on the Legislative Council, when the scheme was introduced in the Council and though not approving several of its details, he expressed his entire approval of the principles on which it was founded. Instead of viewing the operations of the Improvement Trust with feelings of jealousy, the spirit which inspired the Corporation in the matter was one of watchfulness. A paper, called "Indian Engineering" made the charge against the majority of the members of the Corporation that they opposed the Improvement Trust, because they had lost the chance of profitable gambling in land transactions. He ventured to say that knowing as he did the people of Bombay and their representatives on the Corporation, a grosser libel was never uttered. If the writer of the article had studied the Improvement Trust Act, he (Mr. Mehta) was certain that he would never have formulated such a tremendous accusation. "Speculation" was a bugbear, which was very often raised for the purpose of asking the Corporation not to meddle, as it was said, with the proceedings of the Trust. The word was never more sadly misused in regard to the purchase of properties, which were to be acquired under the improvement schemes. He thought that the sections in the Improvement Trust Act relating to acquisition of properties did not admit of speculation which would yield any profit. He repeated that the Corporation had been actuated by no motive of ill-feeling or by any disappointment in having lost an opportunity of making money when assuming the attitude which they had taken up in connection with the operations of the Trust. That attitude had been founded upon other reasons altogether, and it had been taken up for the purpose of comprehending quite accurately the schemes of the Trust. It might be remembered that the Improvement Trust Act was rushed through in the Legislative Council, and the reason given for it was that no other remedy would avail against the spread of plague, unless the city was at once taken in hand and the insanitary and unhealthy portions of the city reconstructed. But it was now made quite clear that though the operations of the Trust would go a great way in improving the health of the city they would not do anything towards stopping the plague. As a necessary consequence of the haste in which legislation

was undertaken a great many matters of vital importance did not receive that consideration which the gravity of the situation required and upon which the successful operation of the Act and the financial solvency of the city to a large extent depended. Mr. Mehta then proceeded to argue that no mature consideration was given by the Trust to their schemes of improvement, nor had the Corporation and the public any opportunity of fully considering and discussing them.

In conclusion, he moved that the papers be recorded ; and that a Committee composed of the President, Messrs. Sayani, Setalwad, MacDonald, Lund, Vithuldas Damoder Thakersy, Jafferbhoy Rahimtools, Gamadia, Shroff, and Mehta, be appointed to prepare in consultation with the Municipal Commissioner and submit to the Corporation a representation on the various points raised in the papers.

Mr. R. M. Sayani seconded the proposition, which was carried.

THE HEALTH DEPARTMENT.

Removal of
filth in 1825.

In the early part of nineteenth Century there was a difficulty of providing means for the removal of the filth of the Fort. Eventually on the 24th August 1825, the following resolution was passed :—

“That a letter be written to Government in reply to their suggestion of employing a scavenger’s boat to remove the filth of the Fort, stating that the Worshipful Bench have caused enquiries to be made, the result of which is that the measure will be attended not only with a considerable additional expense, but moreover be ineffectual, inasmuch that the Boats could not be used at low water nor during the violence of the S. W. monsoon for several days together, besides which there is not a convenient place where it would be permitted to deposit the filth until the Boats could be brought up for its removal.”

Prior to this suggestion, the question of providing funds for cleaning the streets engaged the attention of the Justices. Government was thereupon addressed on the subject as to whether the expenses should be borne by them or by the Justices. The following resolution which was passed on the subject, however decided the question.

5th May, 1824.

Cleaning of
unmade
streets in
1824.

“At a meeting of the Committee of His Majesty’s Justices held this day a letter was read from Government dated 3rd May 1824 stating that the Hon’ble Government in Council are of opinion that for the purpose of maintaining a more efficient establishment for cleaning the unmade streets of the Fort the Bench are fully warranted in levying an additional assessment, &c. The Bench having given this important proposition from H. M.’s Board the fullest consideration are of opinion that the expense of cleaning the unmade streets should be borne by Government according to the Act of Parliament and not from the Assessment.

“The Bench are also further of opinion that the Assessment on houses and buildings being to the extent of one-twentieth part of the gross annual value is as high as the circumstances of the proprietors and owners, and the nature of the buildings will admit.”

Prior to the year 1840, the work of cleaning the native Town was done by contract, but on 28th April 1840, the Bench thought this method an inefficient one, as the Contractor would do the work in the cheapest and most superficial manner and therefore considered the advisability of discontinuing the system. A Committee was then appointed with full power to act in all matters relating to the cleanliness and general health of the city.

Cleaning of
Native Town
in 1840.

Before the introduction of the Municipal Act of 1865, there were three distinct establishments for the purpose of promoting the health and convenience of the citizens of Bombay and these three functionaries performed their duties under three distinct local Acts. Viz: First the Executive Engineer's Establishment for designing and constructing new roads and sanitary works and the repair and maintenance of old ones. This work was done by the Superintendent* of Repairs under Act XI of 1845.

The second was the "Regulation of buildings." This was effected by the Surveyor to the Court of Petty Sessions under the Building Act XXVIII of 1839.

The third was the prevention of nuisance and this was done by the Surveyor to the Court of Petty Sessions under the nuisance Act XIV of 1842.

Mr. H. Conybeare in his report on the Sanitary State and Sanitary Requirements of Bombay in a footnote states that Government appointed the Superintendent of Repairs on the condition of his discharging the duties of a Government appointment, that of Surveyor to the Court of Petty Sessions, gratuitously. This arrangement being made the "Superintendent of Repairs" was forthwith gazetted as "appointed by the Governor in Council Surveyor to the Court of Petty Sessions," his establishment in such capacity being still paid from the Treasury and not from the Municipal fund. The inconvenience that would have otherwise arisen from the double capacity of the Surveyor to the Court and Superintendent of Repairs and the double authority under which he acted was in a great measure obviated by the Court of Petty Sessions and the Board of Conservancy having the same Chairman.

Appointment
of Superin-
tendent of
Repairs and
Surveyor to
the Court of
Petty Ses-
sions.

The Sanitary work of the Municipality in this year, was distributed between the Surveyor's or Executive

* The Superintendent of Repairs was appointed by the Bench subject to the approval of the Government who confirmed his appointment.

Engineer's Office, the Scavenging Contractor and the Sanitary Department which, however, only included the Health Officer and the Market and Slaughter House Departments, consequently there was no Executive Head of the Health Department. The contractor who was practically uncontrolled did the Scavenging work in the cheapest possible manner. The arrangement continued till 1st August 1865, when it was cancelled. Subsequently the Health Department was made the Executive and accordingly on 18th November 1865, took up the entire work of cleansing the Town.

The arrival
of Halalkhors
in Bombay.

On the 15th November of that year the first batch of Halalkhors arrived from up country and by the end of the year 255 had come down. Twenty five of this number however ran away, having been intimidated by the halalkhore residents in Bombay.

Halalkhor
Strike.

On the 1st January 1866, and for the ten succeeding days, the Halalkhores struck work, being alarmed at the introduction of the new hands, and being determined to try and retain the old system. Eventually the head men were brought to terms and Dr. Hewlett, the then Health Officer enroled the whole of them. In these days the pay of a Halalkhor was Rs. 40. On the 1st August 1867, it was reduced to Rs. 30 per mensem, that of the women from Rs. 25 to Rs. 20 and of lads from Rs. 20 to Rs. 15 each per mensem.

Proposed abo-
lishment of
the Halalkhor
system.

The improvement in the Halalkhore system did not meet with the encouragement it should have as in 1868, two Justices of the Peace (Mr. S. Shapoorji Bengalee and Mr. Nowroji Furdonji) proposed that the service should be abandoned by the Municipality and left to private service as of yore, because the Municipal service was no better than that of old, they were flatly contradicted by the native Justices appealed to, and their proposal found no supporter whatsoever.

Extension of
Halalkhor
Service to
Malabar Hill.

On the 1st January 1875, the Municipal Halalkhor service was extended to Walkeshwar and Mahaluxmee. The carrying out of this arrangement met with considerable opposition from the private sweepers, who were very stubborn and insolent. Many of the private sweepers refused to take Municipal employment at any price, and resolved to leave Bombay sooner than serve in the

Health Department. Their opposition to and dislike of the Municipal service was very natural, considering that they would not receive from the Municipality half the wages they had already been earning. Besides as they gave a certain portion of their pay every month to the butlers of the families by whom they were employed, they relied on the butlers being able to get at the ears of their masters, and prejudicing them against the Municipal Halalkhores. It was to their interest to cast as much discredit as they could on the Municipal arrangements, and as almost all the servants were interested in the continuance of the private halalkhore system, they at once reported to their masters all the little shortcomings of the Municipal sweepers, they exaggerated every little fault they committed, and they retailed highly coloured accounts of their failures. The private sweepers were very useful to the servants; they used to do little odds and ends of work for them, and many things which the house servants should have done themselves and they were allowed to go into places where they should never have been permitted to show their faces. Many of the residents were anxious to keep on their own sweepers whom they knew, and believed they could trust. On the 1st January 1875 a good many of the private sweepers were present and answered their names, but instead of going to the bungalows to work they ran off and hid themselves. The absence of their old sweepers from work annoyed many of the people, particularly as they had been told by their servants that the Municipal Officers had frightened them off, and had threatened to do dreadful things to them if they were caught at work; this they believed, and they could not be convinced that anything less than force would have kept their old sweepers from work. The private sweepers thought their masters could not do without them or get any one to replace them; however as there was a reserve of Municipal sweepers, the difficulty was tided over.

Twenty three years after the first Halalkhore strike—in 1889—the Health Department had to face a difficulty in the shape of a strike by the scavengering biggaries. The strike caused inconvenience and threatened great danger to the Health of the City. The Corporation acknowledged the services of the Executive Officers whose energy overcame the crisis. The Acting Commissioner of

Strike of
scavengering
Biggaries.

Police (the late Col. Wise) and his officers gave very valuable assistance.

The Halalkhors in Municipal employ rendered good service by cheerfully doing as much of the scavengers work, in addition to their own halalkhor work as they possibly could.

In his annual report of 1866, Dr. Hewlett, the Health Officer thus describes the Halalkhor :—

The Halalkhor of India.

“ The lowest of the various castes throughout India is the Halalkhor, whose shadow even defiles the heaven-born Brahmin, and with whom the Mhang or Mhar (the scavengering class) disdain to eat or associate. Distinct and degraded from birth as the halalkhor is, he is yet, generally speaking when young well grown, and possessing pleasing and symmetrical features. Without the restraining effect of any kind of religion, they indulge in every vice, and become prematurely old and worn out. Their great pleasure appears to be to drink the most ardent spirits they can procure until they fall down in a perfectly lethargic state. Whilst in this state, you may roll them over, you may pour buckets of water upon them, without eliciting any greater sign of vitality than a feeble grunt, and nothing will rouse them until they have slept for some hours, when they get up without any headache or other apparent ill effect. A European lad, 17 or 18 years of age, was found living amongst them, and entirely supported, fed and clothed at their expense. This wretched boy was the son of a soldier who took his discharge from a regiment in the Panjaub and came to Bombay with his wife and this boy in search of employment. The wife died; the father applied for and obtained a passage to England at the expense of Government leaving this boy to take care of himself as best he might. He sank from bad to worse, and at last, as he said, was really dying of actual starvation, when these men, the out-castes of society, took pity on their brother out-caste and supplied him with the necessaries of life which he could not obtain from his fellow countrymen. This lad was taken into Municipal Service, but the craving for an idle vagrant life had been allowed to grow too strongly on him, and, after overlooking faults of the gravest kind on several occasions, and finding that he, although so young, was already a confirmed opium eater, I was obliged to discharge him.”

The following Table shews the Executive Staff as it existed in 1865.

255

WARD.	Area in Acres.	Popula- tion.	Propor- tion of Area to Popula- tion in sq. yards.	European Inspectors.	Native Inspectors.		Superintendent of Stables.	Mucadums.	Carts.	Drivers.	Bullocks.	Biggaries.		Total of last 2 Cols.
					1st Class.	2nd Class.						Men.	Women.	
Colaba ...	238-36	19,161	60-1	1-2nd class	1	2	1	1	16	16	32	32	16	48
Fort and Esplanade.	698-66	49,582	68-2	1-1st "	1	3	1	1	26	26	52	66	26	92
Mandvee ...	210-96	1,57,996	6-4	1-1st "	3	5	1	1	44	44	88	132	88	220
Umakhari ...	153-55	1,23,279	6-02	1-1st "	2	4	1	1	38	38	76	114	76	190
Bhuleshwar...	285-90	1,44,006	7-8	1-2nd "	2	4	1	1	38	38	76	114	76	190
Camattipura ...	747-78	1,28,214	28-1	Do.	2	4	1	1	38	38	76	114	76	190
Girgaum ...	301-90	56,866	25-6	Do.	1	2	1	1	18	18	36	54	36	90
Malabar Hill ...	1,104-33	19,238	277-8	1-3rd "	...	2	1	1	14	14	28	38	24	62
Mazagon ...	530-64	31,246	82-1	Do.	1	2	1	1	11	11	22	33	22	55
Parel ...	5,031-05	24,122	1,009-4	Do.	1	2	1	1	11	11	22	33	22	55
Mahim ...	2,665-64	29,670	434-8	Do.	...	2	1	1	11	11	22	33	22	55
Total...	11,918-77	7,83,980	.....	11	14	32	11	11	265	265	530	763	484	1,247

Scavenger-
ing and Drain
Carts.

In the Eleven Wards of the City in 1865, the distribution of Scavengering and Drain Carts were as under :—

Wards.	Scavengering Carts.	Drain Carts.	Total.
No. 1	10	6	16
" 2	14	12	26
" 3	24	20	44
" 4	20	18	38
" 5	20	18	38
" 6	20	18	38
" 7	12	6	18
" 8	10	4	14
" 9	6	5	11
" 10	6	5	11
" 11	6	5	11
	<hr/> 148	<hr/> 117	<hr/> 265

Night Soil
Depots.

There were also only 6 public Depots as follows :—

Colaba, two new iron necessaries	....	4 carts.
Khara Talao ... ..	....	9 "
Packmodia Street ....	....	1 "
Sonapur.... ....	....	16 "
Camathipura ....	....	8 "
Parell ... ..	....	2 "
		<hr/> 40 carts.

City divided
into Wards.

After the introduction of the Municipal Act of 1865, the City was divided into three class of Wards *i. e.* :—

First Class Ward.	{ Fort. Mandvi. Omerkhari. Bhuleshwar. Camathipura.
Second Class Ward.	{ Girgaum. Malabar Hill. Mazagon. Colaba.
Third Class Ward.	{ Parell. Mahim.

At present the City is divided into seven Wards *i. e.* A. to G.

Health De-
partment Es-
tablishment.

A staff consisting of one Chief Inspector and 11 European Inspectors with Native Assistants were entertained on 1st August 1865. A European Inspector was appointed to each Ward and his duties consisted in seeing

how the Contractor of Scavengering performed his contract, in reporting all nuisances, and bringing offenders against the Act before the Police Magistrate.

The Establishment then consisted of :—

1. The Scavengering Establishment.
2. The Drain Cleaning „
3. The Road Scraping „
4. The Town Sweeping Bunder Establishment.
5. The Foreman, Carpenter and Storekeeper's Establishment.
6. The Market and Slaughter House Establishment.
7. The Night Soil and Halalcores „

The Island was then divided into 11 Wards and a distinct Establishment of Carts, Bullocks, Coolies &c, was told off to each Ward.

The City having considerably extended within a period of a little over thirty years, and consequently the work of the Health Department having considerably increased, a proposal was submitted in 1897, to reorganise the Health Department; which was done by the appointment of Divisional Health Officers, Deputy Health Officers and a large staff of employes.

DISPOSAL OF TOWN SWEEPINGS.

The refuse which was removed to Sion and Coorla consisted of 7,548 waggons during the year 1866, each waggon averaging 6 tons in weight. The new pattern waggons weighed $8\frac{1}{2}$ tons and in subsequent years the removal of garbage increased.

Under the contract system in 1865, about 7,550 waggons or 45,300 tons of refuse went to Coorla while under the Departmental system it was :—

In 1866	17,183 Waggons or	1,03,098 Tons
„ 1867	16,254 „	1,11,789 „
„ 1868	15,991 „	1,11,876 „

Removal of
Town Sweep-
ings to Coorla.

But besides this in 1868, no less than 13,431 cart loads of refuse were burnt at different points or 840 waggon loads or 6,720 tons. So that the entire amount of refuse removed in 1868 was 16,831 waggon loads or 1,18,596 tons and whereas in 1867 it cost Rs. 1,57,949 to dispose of 1,11,789 tons of refuse, in 1868 it cost Rs. 1,38,000 to dispose of 1,18,596 tons.

Reclamation
of the Flats.

The Health Officer in his annual report of 1873 states:—

“ The question of reclaiming the Flats with Town sweepings appears to me to be simply this—shall they remain as they are sewage soaked, uncared for, periodically flooded, an everlasting source of disease ; or shall they be reclaimed with a material which, in a little more than 3 years forms a mould fertile in the extreme and able to grow every kind of vegetable in luxuriant plentifulness ? ”

In June 1873, Dr. Hewlett wrote to the Municipal Commissioner as under :—

“ I have the honour to address you on a subject which I have more than once brought to notice, and which I do again in the hope that you may approve of the scheme suggested and bring your influence to bear on Government to promote it. I mean the filling in of the Flats between Hornby Vellard, Clerk Road, the Main Drain and Love Grove sluices and the building of a crescent on the land so reclaimed. As you are aware, year by year, there is a greater influx of salt water through the Vellard and the water stagnates on the Flats and becomes under the hot October's sun most offensive. If the Government were only to give a concession of the land for a nominal rate per square yard and were to sell the Cumbhalla Hill, the whole of this area might be filled in up to the level of the Vellard. Many native gentlemen would gladly invest money in building houses and a magnificent crescent might be formed which would directly face the West and would relieve Malabar Hill which is very much overcrowded. It would be a great improvement if Government were only to grant the concession I have asked ; I believe it might be carried out within a very few years.”

On the 7th May 1875, the Town Council passed the following resolution :—

“ That the Council consider that the proposal of the Municipal Commissioner for the gradual reclamation of the Flats with Town sweepings, with due sanitary precautions as now adopted, instead of transporting the sweepings by Railway to Coorla would be an important sanitary improvement, and they approve the same generally.

“ That the Council consider that when the Municipal Act is (shortly) before the legislature clause 214 of the Act should be amended by the omission of the final words ‘ for within the limits of the city of Bombay.’ ”

“That the Council consider that an application should be made by the Municipal Commissioner to Government for a lease of the land on the Flats to be reclaimed, and that the terms on which a lease can be obtained should be reported.”

Leasing of
land on the
Flats for
Kutchra.

From 1st December 1875, only one train of sweepings was sent to Coorla instead of two as before. About one half of the garbage was sent to the Coorla reclamation, and the greater portion of the remainder was laid down on the flats.

The Army Sanitary Commission, in a memorandum on the report of the Bombay Municipality for 1874, express their views on the disposal of the garbage to this effect :—

“An important question is raised by the Officer of Health as to the use of town sweepings for raising the level of the “flats” as they are called which are at present a putrid salt marsh. It would not be safe to use any cesspool water for such a purpose, but there is no experience to show that ordinary town sweepings would be otherwise than beneficial in their action. If the surface were raised to its intended level, properly planted and covered with useful vegetation, as the Officer of Health suggests, the result to the public Health could scarcely be otherwise than beneficial, a well known source of malaria would be gradually abolished, and a large useful area might be converted into cultivated ground or into public gardens but no part of it should be covered with dwelling houses.”

The practice of sending out the town sweepings by train to Coorla was discontinued from 1st December 1877, after which it was deposited on the flats at Tardeo. Government made over to the Municipality a very considerable portion of the flats for reclamation with town sweepings on the same terms as those on which the original allotment of 36 acres was made over under Government Resolution No. 2609 dated 7th May 1873. The terms were “36 acres made over to the Municipality on a nominal rental of Re. 1 per acre on condition it may be resumed at 6 months notice on payment of compensation for standing crops only. That no building be erected on it and that it be applied to no purpose to which Government may object.”

Discontinu-
ance of remov-
ing Town
Sweepings to
Coorla.

Area of Re-
clamation
ground at Tar-
deo and Curla.

Areas of reclamation grounds at Tardeo and Curla.

YEARS.	Tardeo Flats.		Curla.	
	Acres.		Acres.	
1866... ..	.....		} 42·00	
1867... ..	.....		
1868... ..	.....		
1869... ..	.....		
1870... ..	3·75			
1871... ..	2·75			
1872... ..	3·12			
1873... ..	} 5·00			3·41
1874... ..				8 54
1875... ..	2·50			5·75
1876... ..	3·75			·69
1877... ..	5·95			8·63
1878... ..	8·56			
1879... ..	} 26·05			
1880... ..				
1881... ..	6·37			
1882... ..	.....		
Total ...	67·80		64·02	

Government
Resolution
leasing land on
the Flats.

The following are the Government Resolutions making over to the Municipality several plots of land on the flats:—

Revenue Department No.	194	dated	20th April	1848.
"	"	193	"	4th February 1870.
"	"	2609	"	7th May 1873.
"	"	6663	"	8th November 1877.
"	"	5174	"	9th October 1878.
"	"	950	"	22nd February 1879.
"	"	7768	"	6th November 1882.

REPORT OF THE COMMITTEE OF THE CORPORATION APPOINTED TO REPORT ON THE QUESTION OF THE DISPOSAL OF TOWN SWEEPINGS.

Removal of
Kutchra to
Chimbur.

The Committee of the Corporation re-appointed on 4th April

That the following Committee be appointed to report on the question of the disposal of town sweepings:—

The President, Bhalchandra K. Bhatawadekar, Esq., Thomas Blaney, Esq., C. I. E., Dinsha Edulji Wach, Esq., N. N. Katrak, Esq., S. Rebsch, Esq., Major Scott.

Three to form a quorum and Major Scott to be Chairman.

and fully detailed report of the

1895, as per margin, beg to report that they have met on sixteen occasions and fully discussed all the possible means of disposing of the town sweepings, in consultation with the Municipal Commissioner, the Executive Engineer, and the Health Officer. The numerous Executive, which accompany

this, will enable the Corporation to judge of the merits and drawbacks of the various schemes that have been put forward.

2. It will be seen from the papers that these schemes include (a) Incineration; (b) Transport by the existing Tramway Service; (c) Transport by Municipal Railway; (d) Transport by the B. B. and C. I. and G. I. P. Railways, all the calculations being based on the quantity of kutchra removed in the official year 1895-96.*

3. At the earlier discussions on the subject it was considered that it was not possible to come to any satisfactory arrangements with the two Railway Companies, while the proposals to convey sweepings by either a Municipal Railway or by the existing Tramway Service might prove an intolerable nuisance, causing congestion of traffic in portions of the City, without any preponderating material advantages.

4. Incineration was, therefore, thought the only feasible solution of the question, and details of this method of disposal were very fully discussed and reported upon. It was however, found in the early stages of the discussion, that it was not practicable to incinerate the sweepings at convenient points throughout the area of the City, partly because of the nuisance that would be created in the vicinity of incinerators, and partly because the cost of acquiring sufficient land for the necessary operations would be prohibitive. The proposal for local incineration had, therefore, to be abandoned, and the further discussion on this method of disposal was confined to incineration at a large central station.

5. Only one such position was available, *viz.*, at Mahaluxmi Flats; but it was soon manifest that a great part of the economy expected to be effected by the adoption of such a single central station for incineration there would disappear, for the cartage expenses could not under such a scheme be reduced.

6. It will thus be seen that the scope of the enquiry was henceforward confined to either incineration at one large central station or transport by railway from the same locality. At this stage it was clear that a comparison of the cost involved in disposing of the sweepings after they had been carted to Mahaluxmi, and a careful investigation into the sanitary advantages of the methods of further disposal, would indicate the most suitable and economical scheme to be recommended to the Corporation. A further discussion at this stage with the Railway Companies made it practicable to arrive at a suitable working scheme. They are willing on certain terms to convey the town sweepings to Chimbur.

7. The Executive Engineer has shown in a very lucid statement attached to his report * No. 6038, dated 4th August 1896—the comparative financial position of incineration and transport by railway. The statement shows the sums of the working expenses and the Sinking

* See compilation of printed papers circulated by the Secretary under date of 11th August 1896.

* See proceedings of the Corporation.

fund and interest charges on capital expenditure, and the comparison takes into account all the factors in each case. The figures appear to show incontestably that, from a financial point of view, transport to Chimbur is the scheme most suitable for adoption.

It has already been stated that the cartage expenses would be precisely the same whether incineration or transport by railway were adopted; this factor has not therefore been included in the comparative statement. The only other point which might prove a sufficient reason for not adopting a decision on the financial outlook, is the question of nuisance which will now be discussed.

8. The Committee had hoped for a clearer expression of his opinion than the Health Officer has given in his No. 14059 of 20th July 1896, to the address of the Commissioner †, regarding the probable relative nuisance in incineration and in transport. It seems to the Committee that up to the point at which the carts discharge the sweepings which they have conveyed, such nuisance as must exist is precisely the same whether the cart load is discharged into a railway waggon or on to the ground at the incinerator station. After this the railway would convey the stuff to its destination without any further disturbance *en route*, whereas in the latter case the sweepings would lie festering for hours awaiting incineration. They would have to be disturbed and exposed to the air during their conveyance to the cells, and thereafter the smell and smoke of the incinerator chimney would be carried over a very large area of the Island. So far, therefore, as the Committee can judge, the nuisance of incineration would be of longer duration and of as great or greater intensity than that involved in railway transport, and they are accordingly of opinion that the nuisance question need not alter the decision indicated by financial results.

9. The first proposals made with respect to local incinerations at convenient centres throughout the area of the City appeared so suitable from a financial point of view, in that they would have obviated the necessity of a large portion of the present cartage expenses, that the Committee think they should at this point somewhat amplify the brief remarks which this scheme has already evoked. The chimney of the trial incinerator at the Municipal Workshops is admittedly not high enough, but the thick smoke spreading therefrom over the surrounding locality, which is densely populated, indicates the danger to be apprehended from the smoke of the chimneys, of not one, but eight or ten incinerators which would be necessary in different parts of the town. The smoke nuisance could probably be reduced by increasing the height of the chimneys, but this again would enhance the cost of construction, and the increased capital outlay would *pro tanto* raise the sinking fund and annual expenses. Again,

† See printed compilation circulated by the Secretary on the 11th August as above.

speaking from a financial point of view, there is another factor to be borne in mind, namely, the liability of incinerators to damage and mishaps. This means either additional nuisance so long as the sweepings accumulate and remain unburnt, during the interval of repairs which may be from a few hours to a few days or the provision of additional or reserve incinerators at an increased capital outlay. It seems clear therefore that local incineration within the limits of the City, apart from the nuisance referred to, must involve an outlay largely in excess of that necessary if the whole of the incineration were carried out at one site as estimated for by Mr. Murzban in his statements N*, Q

* See for N printed compilation circulated by the Secretary on the 11th August 1896, and for Q and S accompaniments to Mr. Murzban's No. 8321 of 22nd October last in the record of Corporation.

and S appended hereto; for not only would the outlay on the acquisition of land be very much greater, but the incinerators and spare cells at each depôt and the chimneys necessary at each installation would be largely in excess of similar works necessary at a central station with corresponding in-

crease in their cost.

10. The Committee would further state that the Commissioner has most emphatically and repeatedly brought to their notice that the existing method of disposal by deposits on the flats can no longer be continued without danger to the health of the City, and that the rapidity with which the new scheme, to be adopted, would be brought into operation, should be considered an important element in making a selection from the various schemes.

11. In this respect, too, the Railway transport scheme compares favourably with incineration, for the Executive Engineer reports that the Railway sidings, &c., can be brought into operation within a period of twelve months, whereas the construction of incinerators and other arrangements in connection with this mode of disposal, will occupy two or three years.

12. The Committee, after taking everything into consideration, beg therefore to recommend for adoption the scheme for the transportation of the sweepings by railway.

13. In the above, the Committee have endeavoured to review, as briefly as possible, the large mass of reports and opinions which has passed through their hands, thinking that a summary of this nature would place the principal features of their deliberations most clearly before the Corporation if all details and figures were omitted.

14. In order, however, that the Corporation may have every opportunity of looking into details, the undernoted documents accompany this report.

Mr. Acworth's No. 8390, dated 7th July 1894,* already published (see volume XVIII of the *Record*, part I, page 213—253.)

* See Corporation Record.

Report showing cost of land required for local incineration at convenient places within the city (see Commissioner's No. 5494, dated 25th June 1896, page 11) and papers forwarded therewith.

Mr. Murzban's report No. 17715 of 26th March 1894.

Mr. Murzban's No. 8321 of 2nd October 1896.

Papers circulated with the Secretary's memo. of 11th August 1896. Commissioner's memo. No. 8968 of 10th August 1896, giving cover to the Health Officer's letter No. 14059 of 2nd July 1896, and other papers.

15. There are one or two more points which the Committee would wish to remark upon. They are disappointed in not being able to show any savings in the collection and removal of the sweepings to Mahaluxmi, although the Health Officer in his No. 14059 of 20th July last, as above, considers that there may be a saving of about Rs. 270 per mensem in the establishment now employed on the flats.

16. It appears to the Committee that there is room for certain improvements in the method of conveyance of "Kutchra" to Mahaluxmi. Not only is the system of cartage a nuisance to the localities through which the carts pass, but this form of conveyance is costly as well as destructive to the roads used, and the Committee venture to suggest that it may be practicable to run out a certain part of the sweepings by the existing Tramways to Mahaluxmi; also that the B. B. & C. I. Railway should again be approached with a view to the Colaba sweepings being railed direct from a collecting station in that locality.

17. It may be convenient to the Corporation if this report is furnished with an abstract of the expenditure involved in the schemes for railway transport and incineration, a summary of the advantages and drawbacks of each, and a review of some points in the Executive Engineer's recommendations.

18. From statements Q* and S* given in Mr. Murzban's letter No. 8321 of 2nd October 1896, as above, it will be seen that the initial cost of the incineration scheme, at one site, namely, on the flats, will be as follows:—

							Rs.
Land	..	..	..	..	..	..	1,00,340
Construction works	..	..	..	..	..	..	6,80,600
Total Rs.							7,80,940

The annual working expenses, including cartage to Chimbur, of non-incinerable stuff, will amount to Rs. 3,01,938. For purposes of comparison it is necessary to show the annual charges for interest and Sinking Fund on the capital expenditure of Rs. 7,80,940. These are given at Rs. 56,510. The total annual charges therefore amount to—

					Rs.
Working expenses	..	..	..	..	3,01,938
Interest and Sinking Fund	..	..	..	..	56,510
Total Rs.					3,58,448

* See Corporation Record.

Similarly, the Railway transport scheme will necessitate an initial capital expenditure as follows :—

	Rs.
Land (to be purchased outright)	1,06,890
Construction works including screens instead of shed at tipping siding	5,30,296
Total Rs. ..	<u>6,37,186</u>

or Rs. 1,43,754 less than the initial capital expenditure involved by the incineration scheme.

The annual charges in the case of the railway transport scheme will amount to :—

	Rs.
Working expenses	1,40,411
Sinking Fund and interest	38,040
Total Charges Rs. ..	<u>1,78,451</u>

19. The total annual charges for the incineration scheme will, therefore, amount to Rs. 3,58,448, as against Rs. 1,78,451 for railway transport, but the latter will result in valuable reclamation works being effected at Chimbur. The Executive Engineer estimates that the revenue to be derived from the reclaimed area will amount to some Rs. 12,000 a year to commence with, and this sum will gradually increase until in 1910 it will reach the handsome figure of Rs. 90,750 as given in his Statement No. S* attached to Mr. Murzban's letter No. 8321, as before. From incinerations there will be no revenue.

The Executive Engineer's estimate of revenue is based on that now obtained from land at Chimbur, which was reclaimed some years ago when railway transport was in force.

20. The Committee recommended that negotiations be entered into with Government for the out-and-out acquisition of the land at Chimbur, which is required for the deposit of the town sweepings. This land is now practically valueless, but will have a high agricultural value immediately reclamation is effected, and it may some day become exceedingly valuable residential property.

21. In the estimate for works in connection with the railway transport scheme, the Committee have considered it desirable to ask the Executive Engineer to include provision for permanent screens on both sides of the tipping sidings, in order that the nuisance from dust, &c., may be reduced to a minimum. The screens will cost Rs. 43,628, and this has been included in the estimate for the scheme. It is a question whether a similar arrangement is not equally necessary at the incinerator site, but provision has not been included in the incinerator estimate.

* See Record of Corporation.

22. The following appear to be the advantages and disadvantages of the rival schemes :—

The railway transport scheme, besides showing a saving of Rs. 1,43,754 in initial capital expenditure, will show an immediate saving of Rs. 1,80,017 per annum in working expenses, interest, and Sinking Fund, as compared with incineration, and will result in a revenue of increasing amount being derived from the reclaimed area.

It will also remove the town sweepings to a remote locality in the speediest manner.

Incineration will cost Rs. 1,80,017 per annum more in working expenses, interest and Sinking Fund at present than Railway transport, and this difference will increase in future as the revenue to be derived from the reclaimed land at Chimbur grows larger.

Theoretically, incineration is believed to be the most sanitary mode of disposing of refuse, but it is more than doubtful whether local conditions will not cause it to be more insanitary than railway transport to a remote uninhabited tract of country.

23. The Committee at their final meeting considered the conditions mentioned in para. 7 of the Executive Engineer's No. 8321 of 2nd October 1896, as above, and, if valid, they would necessitate an alteration of the estimates set forth. From inquiries made from the Commissioner and the Health Officer, it appears that a misapprehension existed as to the Health Officer's meaning, and that he was merely arguing on the basis of a further deposit of non-incinerable kutchra being permissible, while really adhering to his views that not further deposit of any kind was even desirable. As it is obvious that Government do not intend the flats to be used for further deposit of kutchra, once the new scheme can be got into working order there is no occasion to discuss these conditions further, and the estimates will remain undisturbed.

COWASJEE HORMUSJEE.
S. REBSCH.
D. E. WACHA.
G. W. ROUGHTON.
BHALCHANDRA KRISHNA.
NANABHAI NAVROSJI KATRAK.

Note by the Secretary.—Two of the members originally appointed on the Committee have retired from the Corporation, viz., Major Scott, R.E., C.I.E., and Thomas Blaney, Esq., C.I.E.

Corporation
adopt the
Chimbur
Scheme.

The report of the Committee was approved and adopted, by the Corporation and the President was requested to address Government with a view to the permanent acquisition of the land required at Chimbur.

The following was considered by the Standing Committee at their meeting held on 3rd February 1897.

Letter No. 22752 dated 28th January 1897 from the Commissioner to the Secretary as under :—

Sir,—With reference to the Municipal Corporation's Resolution No. 9808, dated the 14th ultimo, and Standing Committee's Resolution No. 9838, dated the 16th idem, thereon, I have the honour to report that there are no funds available to permanently meet the cost of providing for the initial outlay required for the disposal of town sweepings at Chimbur. 2—The cost will therefore have to be met by raising a loan of Rs. 6,37,186, or say Rs. 6,40,000 in round figures, repayable in 40 years at $3\frac{1}{2}$ per cent. interest per annum. Pending the raising of a loan of the above amount along with the cost of other works already sanctioned by the Corporation to be carried out by raising loans, the expenditure during the ensuing year in connection with the scheme for the disposal of town sweepings can be temporarily met with the Standing Committee's and Corporation's sanction by advances from invested and other available balances. 3—The annual interest and sinking fund instalment on the above loan of Rs. 6,40,000 for 40 years at $3\frac{1}{2}$ per cent. interest will amount to Rs. 30,200, which together with the maintenance charges amounting to Rs. 1,40,417 as estimated by the Executive Engineer and approved of by the Corporation, or say Rs. 1,71,000 in all, will have to be met from current revenue, which, I am afraid, will not be able to bear this heavy charge, as also the interest and sinking fund instalment, amounting to Rs. 73,500, on account of the loan works of the aggregate estimated cost of Rs. 15,61,000 sanctioned in the ensuing year's budget, without extra taxation, unless the Corporation agree to meet the deficit in revenue which will be caused by these additional maintenance and debt charges, out of the accumulated balances of previous years, a greater portion of which is likely to be absorbed by deficits in revenue for the current and ensuing years and by further expenditure for the suppression of the plague. I have &c.—
P. C. H. SNOW, Commissioner.

Proposed by Nanabhai N. Katrak, Esq., seconded by T. W. Cuffe, Esq.—

“That, with reference to their Resolution No. 9808 of
No. 11830. the 14th December 1896, the Corporation be recommended to authorize the Commissioner to apply to Government for sanction to the raising of a loan sufficient to provide for the initial outlay necessary for providing for the disposal of town sweepings at Chimbur, namely, a loan of Rs. 6,40,000 repayable in forty years, bearing interest at $3\frac{1}{2}$ per cent. per annum.

That, pending the raising of such loan, the cost of carrying out the works in question be met by advances from invested and other available balances to be adjusted hereafter when the raising of the loan has been sanctioned. That the Commissioner reports that the annual charges for interest and sinking fund instalments on the loan and at the above rate of interest on a loan for 40 years will amount to Rs. 30,200 per annum, and that the maintenance charges debitable to current revenue are estimated by the Executive Engineer at Rs. 1,40,417 yearly; that the Corporation be further recommended to authorize the Commissioner to include the above amount of Rs. 6,40,000 in the application to be made to Government for raising Rs. 15,61,000 for the different loan works sanctioned in the Budget for 1897-98, the total loan to be applied for thus aggregating Rs. 22,01,000, or say Rs. 22,00,000. That the Standing Committee agree with the Commissioner that the sinking fund and interest charges on the total loan and the maintenance charges, amounting in the aggregate to Rs. 2,44,200, if not met from invested balances which are likely to be almost absorbed by deficits in revenue for the current and ensuing years and by further expenditure for the suppression of the plague, will have to be met by additional taxation. That the Chairman be asked to apply to the Corporation, at their meeting tomorrow (4-2-97) to consider this resolution as urgent business."

On 4th February 1897, the Corporation passed the following Resolution.

Proposed by Bhalchandra K. Bhatawadekar, Esq., seconded by A. G. Viegas, Esq.—

Corporation
sanction the
raising of the
requisite loan.

"That, with reference to the Standing Committee's Resolution No. 11830 of the 3rd instant, the Corporation authorize the Commissioner to apply to Government for sanction to the raising of a loan sufficient to provide for the initial outlay necessary for providing for the disposal of town sweepings at Chimbur, namely, a loan of Rs. 6,40,000 repayable in forty years bearing interest at $3\frac{1}{2}$ per cent. per annum.

"That, pending the raising of such loan, the cost of carrying out the works in question be met by advances from invested and other available balances to be adjusted hereafter when the raising of the loan has been sanctioned.

“That, as further recommended by the Standing Committee, the Corporation authorize the Commissioner to include the above amount of Rs. 6,40,000 in the application to be made to Government for raising Rs. 15,61,000 for the different loan works sanctioned in the Budget for 1897-98. The total loan to be applied for thus aggregating Rs. 22,00,000.

“That the Corporation agree with the Commissioner and the Standing Committee that the sinking fund and interest charges on the total loan and the maintenance charges amounting in the aggregate to Rs. 2,44,200, as

Interest and Sinking Fund on Rs. 6,40,000 ...	Rs. 30,200
“ “ “ “ 15,60,000 ...	73,500
Annual extra debt charges ...	1,03,700
Annual maintenance charges in connection with the disposal of town sweepings at Chimbur ...	1,40,500
Total ...	Rs. 2,44,200

detailed in the margin, if not met from invested balances which are likely to be almost absorbed by deficits in revenue for the current and ensuing years and by further expenditure for the suppression of the plague, will have to be met by additional taxation.

“That Resolution of the Standing Committee, No. 10098 of 30th December 1896, as under be recorded:—

‘That letter to the Secretary, No. 19560, dated 23rd instant, from the Commissioner, and protest against the disposal of town sweepings at Chimbur submitted therewith, be forwarded to the Corporation.’ ”

The Bombay Government vide their letter No. 1532, Revenue Department dated 24th February 1897, having intimated to the Corporation that H. E. the Governor in Council did not deem it expedient to sell outright either the land already leased to the Municipality or the additional land applied for, the Corporation on 13th May 1897 sanctioned the acquisition of 823 acres and 4 guntas or thereabout of land at Chimbur, the property of Mr. Ardasir Cursetji Cama, specified in the Executive Engineers’ letter to the Municipal Commissioner No. 17013 dated 25th March 1897.

The Corporation visited and inspected the works on 12th May, 1899, and the transportation of sweepings was commenced on 7th June 1899. Out of the grant of Rs. 8,44,000 the expenditure upto the end of March 1900 was Rs. 7,18,209.

Government refuse to sell outright the land at Chimbur.

Total expenditure on the Chimbur Scheme.

The Bee Hive
Incinerator.

The Bee Hive Incinerator was sanctioned in November 1886 and was completed in August 1887 but as the result of the working at first was not satisfactory, several minor alterations were effected in December of that year and the subsequent results were favourable.

REGISTRATION OF BIRTHS AND DEATHS.

The duties connected with the registration of births and deaths were permanently attached to the Health Officer on the 1st January 1867. The registration of the births and deaths was most unsatisfactory, as the causes of deaths were most imperfectly given. The City was therefore divided into fifteen districts, and to each district a Registrar of births and deaths was appointed. Handbills were circulated and battakees beaten in every part of the City warning the inhabitants that they were liable to a penalty to give information to the Registrar of the District in which they resided, both as regards births and deaths occurring in their families. This measure was attended with immediate good results.

In 1874 the establishment was made up of:—

5 Registrars of Births and Deaths.

1 Superintendent water Division.

7 office clerks.

1 Peon.

22 clerks for collecting information concerning births in the city.

The cost of the establishment came to about Rs. 804 a month.

In 1897 a proposal was submitted to amend the system of Registration of Births and Deaths as under:—

BOMBAY, 20th January 1898.

The Committee appointed by the Corporation on the 23rd December 1897, beg to report that, after careful consideration of the report of the Standing Committee on the proposed amendment of

the law relating to the registration of births and deaths, your Committee are of opinion that no alteration in the Municipal Act is necessary as they consider that accurate registration can be secured by the operation of by-laws framed under the provisions of Section 461 of the Municipal Act.

The Committee, therefore, recommend that by-laws under Section 461 be framed accordingly.

G. COTTON.
MANEKSHAH J. TALYARKHAN.
KALABHAI LALUBHAI.
IBRAHIM RAHIMTOOLA.
HAJI YOOSOF HAJI ISMAIL.
ISMAIL JAN MAHOMED.
SUNDERNATH D. KHOTE.
G. W. ROUGHTON,
DHAKJI KASHINATHJI.
N. J. GAMADIA.

I dissent from the above and agree with Dr. Bahadurji that the alterations proposed by the Commissioner to the Standing Committee with certain amendments should be adopted.

O. V. MULLER.

I disagree with the Committee in the view they have taken of the subject of death registration as well as of the nature and scope of their work. It is urged that the present Act is all sufficient for the purposes of correct death registration, and all that is required is to frame bye-laws under Section 461, and the bye-laws, according to the Sub-Committee, should provide efficient inspection of corpses at the different places for the disposal of the dead by Brahmin doctors for Hindus, Mahomedan doctors for Mahomedans, and Parsee doctors for Parsees. No bye-laws can lay down a procedure for carrying out what the Act itself does not provide for or sanction, and the suggestion for a general inspection of corpses just before disposal, and after all religious rites have been performed, even by caste doctors, betrays want of close acquaintance with the religious beliefs and usages of the different communities. A careful reading of the Act will show that no section or sections empower such general inspection of corpses. To say that the Act is all-sufficient for the purposes of correct death registration is not to realize fully the aims, objects, and the true basis of a correct system of death registration, and to show incorrect or insufficient knowledge of what now passes for death registration in the city. The sections embodying the principle and basis of death registration are 449 and 450. Section 450 deals with cases that have received qualified medical treatment. It directs that in the case of a person who has been attended in his last illness by a duly qualified medical practitioner, it is the medical practitioner that shall sign and forward to the Commissioner a certificate of the cause of such person's death in a particular or such other form as may be prescribed by the Commissioner. This section has often remained a dead letter, and for obvious reasons.

The obligation to furnish the necessary certificate is placed on the wrong party. It is by no means an unusual thing to change doctors in the course of an illness, and, just before death, resort to other than qualified medical treatment, or no treatment at all. It is not to be wondered at, therefore, that the medical practitioners called in turns to treat or see a case do not feel themselves called upon to send in a certificate of the cause of death. The friends and relatives of the deceased are not charged with the duty of obtaining the necessary certificate, and it is by no means an unusual thing for the friends and relatives composing the funeral party to remain silent or give a negative answer to the question of the medical attendant, of set purpose or through indifference. When for some purpose or other it is sought to conceal the true cause of death, the name of the medical attendant or attendants is not given, as it may lead to inconvenient inquiries and results. That correct information is not given is a well-known fact, for it is not to be believed that out of some 700 deaths in a week, only two received the *hakim* or *vaid*, and seventy-three qualified medical, treatment. Section 449 deals with untreated cases. It desires information as to the cause of death at or about the time of the disposal of the corpse. Now, at the place of disposal of the dead, the law (Sec. 448) sanctions nothing more than a municipal officer *receiving information* of the particulars to be entered in the Death Register. And the information is to be given in writing, if the informant can write, or orally, if otherwise. The informant is a member of the funeral party—a friend or near relative of the deceased, or any other person present at the death, or the undertaker, or any person causing the corpse to be disposed of (Sec. 449). It is incomprehensible how any bye-law can ascertain more than is now ascertained from informants such as these. It is true, the Coroner's inquest does ascertain circumstances giving a probable cause of death. But that is a semi-judicial inquiry for special cases, and not sanctioned by law for ordinary cases; and the inquiry embraces examination of the corpse, with autopsy where necessary. It argues, therefore, quite an erroneous reading of the terms and intentions of the Act to say that it provides for inspection and examination of the corpses at the places of disposal of the dead, and that all that is necessary is to make bye-laws, to lay down the procedure for carrying out such provision. No such provision exists, and no bye-laws can bring it into being. I take it, then, that it is on a mistaken view of the intentions and provisions of the Act that the Corporation is advised that no amendment of the Act is necessary. For, it will hardly be claimed by even a layman with any idea of the requirements of a correct basis of reliable death registration that the written or oral information given at the burning or burial ground by some one of the funeral party can be the basis of a true and reliable registering of the cause of death. It is true, there is a penalty of fine for the informant who gives information which is not

correct, according to the best of his knowledge and belief. But it is self-evident why the penalty is practically inoperative. I trust therefore, it is sufficiently clear that an amendment of the Act is necessary. What shall be this amendment? In seeking an answer to this question, it must be borne in mind: 1.—That the object of death registration being to ascertain correctly the cause of every death in the City, the procedure to be adopted for the attainment of the end must recognise the right means and methods which afford the necessary information. 2.—That there are but three reliable ways of gaining the necessary information, viz., (a) an examination of the sick person in the course of the last illness by a duly qualified medical practitioner; (b) thorough examination of the corpse; (c) an inquest inquiry, which may require an examination of the corpse, with or without autopsy. 3.—That inquests are provided for in special cases, and it would be absurd and impracticable to hold semi-judicial inquiries in every case in which a medical certificate of the cause of death is not forthcoming. 4.—That it would require extraordinary powers of vision to tell the cause of death by the simple process of viewing the corpse, and one must be very credulous, indeed, to believe that even qualified medical men can decipher the cause of death by a mere inspection of the corpse from a respectable distance prescribed by the religious tenets of the different communities. 5.—That the religious beliefs and usages of this country, and the practice enjoined thereby to dispose of the corpse with all possible haste and at any hour of the day or night, are against the procedure of ascertaining the cause of death on the lines adopted in countries where corpses are not only not so disposed of, but may be inspected, touched, and examined, without any violation of religious principles and rites, or disregard of popular feeling. The law and the procedure, therefore, must be such as seek the necessary information on the nature of the illness terminating in death—not after, but before, death. A law and procedure so adopted will not only gain more reliable information, but work very satisfactorily and smoothly, for it could be no violation of religious rites or feelings to require people to furnish certificates of the nature of the illness terminating in death. Our basis of correct death registration must be a certificate of the nature of the last or fatal illness given by a duly qualified medical practitioner, who has either treated the case or was at least called in to examine and certify the nature of the illness. It is difficult to conceive what objection people could have to supply the necessary certificate except under two circumstances, viz., (1) that in any particular case the cause of death is sought to be concealed to defeat the ends of justice, as in death by poisoning, or to evade the requirements of sanitation and public health, as in death from epidemic diseases; (2) that they are unable to obtain the necessary certificate, because, of poverty. In the first case the course is obvious. In the case of people unable to afford not only qualified medical treatment but even a fee for examining

the patient and certifying the nature of the illness, it is the duty of the Municipality to provide in such cases the necessary examination and certification free of charge. Even to-day this procedure obtains in the mofussil, where the official medical inspector, on being sent for, visits the poor patient and certifies the nature of the illness, so that when death occurs there is no trouble or delay in disposing of the corpse, and the death is not treated as one from plague or requiring further inquiry. If this procedure works well in times of epidemics, there is no reason why it should not work well in ordinary times. Our basis of correct death registration, therefore, must be a certificate of the nature of the last illness given by (a) a duly qualified medical practitioner who has either treated the case or was at least called in to examine it and certify the nature of the illness, or (b) the official medical inspector who was called in for the purpose of examining the patient and certifying the nature of the illness, the official medical inspector being an hospital assistant, who is, according to the ruling of the Government of India, a duly qualified medical practitioner. Bye-laws may be made to lay down the procedure for providing the poor with free visits of the official medical inspector, not for the purpose of giving treatment, but for the purpose of examining the patient and certifying the nature of the illness, so that, on death occurring, the corpse is allowed due disposal without any delay or examination of any sort. The amendment suggested by the Commissioner with the necessary alteration to suit the procedure suggested above will meet the requirements of correct death registration. Sections bearing on the procedure to be adopted before removal of the corpse from the house should be omitted, and Section 451 (1) should read thus: "No corpse shall be allowed disposal without a certificate of death from,—

(a) a duly qualified medical practitioner who had treated the case or was called in to examine the case and certify the nature of the illness ;

(b) an official medical inspector who was called in to examine the case and certify the nature of the illness."

For corpses without such certificates a special procedure already exists for cases of sudden death, and the proposed Section 453 (B) deals with other uncertified cases. The Committee at their last meeting dropped all consideration of the Sub-committee's report bearing on the lines on which bye-laws were recommended, and decided that their work was done if they simply told the Corporation to let alone the suggested alterations in the Act and only frame bye-laws under Section 461. They thought it was no part of their work to suggest the bye-laws that would, in their opinion, secure accurate registration, or even the lines on which such bye-laws should be framed. It was agreed that no accurate registration was possible under the existing state of things. They were appointed to consider a report on the proposed alteration in the law relating to the registration of births

and deaths—a report laying down not only principles, but a regular scheme to work out those principles. The Committee reject it *en bloc* without advancing a single reason and give nothing tangible in return, but a mere fiat to the Corporation—Don't change the law, make bye-laws. After going, fully into the question, as they must be presumed to have done, they have nothing to suggest as to what sort of bye-laws they want; they think the Corporation should appoint another Committee to frame bye-laws which, in their opinion, will secure accurate registration. Suppose, the new Committee in their study of the whole question find the law to be really defective, and are, therefore, unable to cure the defect in the law by means of bye-laws, what then? And, moreover, the question of birth registration did not occupy the attention of the Committee. Not one word was uttered on the subject. I cannot help repeating that the Committee have failed to grasp not only the extent and meaning of the existing provisions in the Act in relation to death registration, and the requirements of accurate death registration, but also the purpose and the work for which they were appointed by the Corporation.

K. N. BAHADURJI.

1st February 1898.

This report was considered by the Corporation at a meeting held on 21st February 1898 with the following result:—

Proposed by Maneksha J. Talyarkhan, Esq., seconded by Kalabhai Lalubhai Esq.—

“That the report of the Committee of the Corporation on the question of the proposed amendment of the law relating to the registration of births and deaths, dated 20th January 1898, be approved and adopted.”

No. 11894.

Amendment, proposed by Dr. Kaikhosru N. Bahadurji, seconded by Dinshah E. Wacha, Esq.—

“That the report of the Committee on the subject of registration of births and deaths, dated 10th December 1897, be approved and adopted, subject to the omission of the following passages:—“Sections bearing on the procedure to be adopted before removal of the corpse from the house” should be omitted, and Section 451 (1) should read thus: “No corpse shall be allowed disposal without a certificate of death from (a) a duly qualified medical practitioner who had treated the case or was called in to examine the case and certify the nature of the illness, (b) an official medical inspector who was called in to examine the case and certify the nature of the illness.”

On a division, the votes were recorded as follows :—

		<i>For.</i>	<i>Against.</i>	
Amendment	...	7	13	<i>Lost.</i>
Original motion	...	15	9	<i>Carried.</i>

No. 7076 of 1888-89.

BOMBAY, 24th July 1888.

To THE SECRETARY, TOWN COUNCIL.

Proposed
amalgamation
of the Regis-
tration and
Vaccination
Departments,

SIR,—Referring to Corporation Resolutions Nos. 1643 and 1858, dated 24th November and 19th December, respectively, I have the honour to report, for the information of the Town Council, that the result of my communication with the Sanitary Commissioner on the subject embodied in the Resolution quoted, has ended by Government declining to assent to a modification of the existing arrangements under which the entire control and supervision of vaccination in the city of Bombay is in the hands of Government.

I enclose a copy of the Resolution, together with a copy of my letter No. 4445 of 14th June 1888, with its accompaniments, for the information of the Council.—I have, &c., F. L. CHARLES, Acting Municipal Commissioner.

No. 4445 of 1888-89.

BOMBAY, 14th June 1888.

SIR,—Referring to your predecessor's No. 17B of the 4th January 1888, I have the honour to forward copy of a report No. 5941 of the 31st May 1888, from the Health Officer of the Municipality, and to say that Dr. Hewlett apparently misunderstood the meaning of the proposed amalgamation.

2. As I understand the Resolution of the Corporation, its intention was not to hand over the registration of births to your Department as Dr. Hewlett understood, but that the Health Department of the Municipality should take over the vaccination arrangements from Government.

3. I have now the honour to ask whether Government are prepared to hand over the supervision of vaccination to the Municipality. It would, of course, be necessary that Government should continue as now to supply a trained Superintendent of Vaccination.—I have, &c.,

F. L. CHARLES, Acting Municipal Commissioner.

No. 5941 of 1888-89.

BOMBAY, 31st May 1888.

To THE MUNICIPAL COMMISSIONER.

MEMORANDUM—The Sanitary Commissioner and the Superintendent of Vaccination have certainly, as you state, misunderstood the purport of the Resolution of the Corporation. I understood that the Corporation wished to know whether by amalgamation of the Vaccination Department, and the establishment for

the registration of births under the Municipal Commissioner, more efficient vaccination and a more efficient registration of births at less cost could not be secured. The impression I had on hearing the discussion was that the Corporation considered that not only was the registration of births, but the enforcement of vaccination, inefficient.

The Superintendent of Vaccination proposes a scheme and establishment for the registration of births at more cost, and in my opinion less efficient than the present system. The Superintendent of Vaccination proposes that instead of the establishment for the registration of births under the Health Department (which now consists of 39 karkoons, although 40 are budgetted) and costing Rs. 429, an establishment costing Rs. 696 should be employed. This is shortly the proposal. The present establishment is 39 karkoons at Rs. 429 a month and Rs. 5,149 annually.

The proposed establishment of the Superintendent of Vaccination is:—1 Inspector, Rs. 80 per month; 1 Inspector, Rs. 65 per month; 1 Inspector, Rs. 50 per month; 1 Clerk, Rs. 30 per month; 12 karkoons at Rs. 15 each, Rs. 180 per month; 21 karkoons at Rs. 12 each, Rs. 252 per month; 1 Peon, Rs. 10 per month; Promotion to 4 Vaccinators at Rs. 6 each, Rs. 24 per month; Promotion to the Head Clerk, Rs. 5 per month; total Rs. 696 per month, and Rs. 8,352 per annum.

If there is more money to be spent, it is of course very easy to propose a scheme for spending it. I do not think it is necessary to spend any more money on the registration of births so long as there are Sub-Inspectors and mucadams in the Health Department to do the work of the three Inspectors proposed by the Superintendent of Vaccination in his scheme. The Superintendent of Vaccination proposes three new Inspectors on salaries ranging from Rs. 80 to Rs. 50, 1 clerk on Rs. 30, 1 peon on Rs. 10, in addition to 33 karkoons on salaries higher than are now paid by the Municipality to the karkoons employed under the Health Department, and that promotion should be given to certain vaccinators and to the head clerk of the Vaccination Department. This is the scheme. As regards the Inspectors: in my opinion the Inspectors could do nothing in the way of supervision. Consider the vast numbers of the populations amongst whom the Inspectors would have to find births and amongst whom they would have to follow the karkoons. Take the figures of the Superintendent of Vaccination, 1 Inspector to a population of 2,96,809, a second Inspector to a population of 2,62,804, and a third Inspector to a population of 1,88,696. What work practically could three Inspectors do in following 33 karkoons amongst these vast populations. Unless that the Inspectors were very exceptional men, they would do no work, and further it would be practically impossible to find out that they did no work. It would almost be as practically useful to expect three men to count grains of the sand on the foreshore.

The Superintendent of Vaccination is not acquainted with the present system, or I do not think he would propose that three Inspectors should be employed. The present system is this. The karkoons keep daily diaries of the houses they visit. These diaries are checked by each ward staff of the Health Department, and the karkoons are also watched by each ward staff; but this supervision is not found sufficient owing to the impossibility of following the karkoons through the large number of houses in the districts distributed to karkoons. The best test is an arbitrary one, the birth-rate; and it is used as you know in addition to other tests in judging the work and punishing the karkoons.

I agree with the opinion of the Superintendent of Vaccination that the karkoons should be paid higher salaries than they are now paid by the Municipality; he proposes that they should be paid Rs. 15 and Rs. 12 each instead of Rs. 11, as now in the Health Department. The work of the karkoons, as I have before reported, is chiefly damaged by a large number of karkoons leaving duty, and applying for leave of absence on the pretence of sickness or emergent business. If the karkoons were paid higher salaries they might be more reluctant to leave Municipal employment. They now attach very little importance to the appointments of Rs. 11 a month.

I do not think it is necessary to have a clerk as the Superintendent of Vaccination proposes, and I do not well know what he would do. I apprehend that the appointment has been proposed under a wrong impression that a clerk is employed in the Health Department in the registration of births. A clerk is not employed by the Health Department in the registration of births, but a clerk has been employed and employed from before the Health Department took over the registration of births, in the tabulation of births. The Health Department has only had charge of the registration of births since the 3rd December 1877.

The Superintendent of Vaccination has misunderstood the position of the Registrars of births and deaths. The Registrars have a position fixed by law, and until the law is amended the Registrars must occupy that position. The Registrars do not find births, but they enter in books the particulars on the birth reports. The Registrars of births are really the karkoons assisted by the Health Department ward staff.

The Superintendent of Vaccination has not had an opportunity of knowing the cause of the laxity "in the working of the penal clauses of the Municipal Acts." That laxity is due to the reading of the law by the courts and, as you are aware, I have long ago reported on the impossibility of obtaining a conviction against the parents of the children. The Superintendent of Vaccination did not know the view taken by the Chief Presidency Magistrate of the law, on this law, and hence his impression.

The large establishment proposed by the Superintendent of Vaccination shows that the present expenditure on the registration of births is very low. If the Superintendent of Vaccination considers that Rs. 267 more than is spent now, is necessary for the registration of births, it is an argument for the increase of the present expenditure. I do not think it is necessary to increase that expenditure. I think it may be reduced if the present experiment of paying the karkoons according to births registered is successful. The report of the Superintendent of Vaccination merely indicates that the registration of births cannot be conducted by any other department than the Police so economically as it is conducted by the Health Department. The Police could conduct the registration of births as economically as the Health Department. The registration of births varies very much in different classes as shown in the following table :—

Return showing the number of births in each class during 1886.

CLASSES.	Number of Births.
Jains	508
Brahmins	287
Lingaets	32
Bhatias	156
Hindoos of other Castes	7,095
Hindoos, Low Castes	1,451
Musulmans.....	3,256
Parsees	1,323
Jews.....	108
Native Christians	433
Eurasians	73
Europeans	169
Negro-Africans	16
Buddhists .....	.....
Other and unknown Castes.....	2
Total...	14,909

I feel some reluctance in criticising the system and establishment provided by the Municipality for the enforcement of vaccination. The great advantage of the present system is in being able to obtain an experienced officer from Government to act as Superintendent of Vaccination. This is the chief advantage. Excluding the Superintendent of Vaccination, the department would be worked more cheaply under the Municipal Commissioner. The scale of salaries paid to the subordinates in the Vaccination Department is higher than in the Health Department, while of course the work is less onerous ; for instance, sub-vaccinators are paid Rs. 18 a month, while mucadams of the same class in the Health Department are only paid Rs. 13 and Rs. 12. The lowest salary of clerks in the Vaccination Department is Rs. 30, while in the Health Department it is Rs. 20. The karkoons in the Vaccination Department are paid Rs. 12, while in the Health Department they are paid Rs. 11. With the

exception of the appointment of the Superintendent of Vaccination, there is no doubt that it would be more economical for the Municipality to have direct charge of the Vaccination Department, and I do not think the department would be worked less efficiently by the Municipality with a good superintendent.

I would point out in conclusion the birth registration is improving.

T. S. WEIR, Health Officer.

Government Resolution No. 2415, dated 12th July 1888, General Department, regarding the proposal to entrust vaccination in the City of Bombay solely to the Municipality.

RESOLUTION.—The Sanitary Commissioner should be requested to inform the Municipal Commissioner, that Government are not prepared to assent to a modification of existing arrangements under which the entire control and supervision of vaccination in the City of Bombay is in the hands of Government.

JOHN NUGENT, Chief Secretary to Government.

The Corporation on 13th September 1898, passed the following Resolution :—

Proposed by Thomas Blaney, Esq., seconded by Surgeon-Major Waters—

“That the papers on the subject of the amalgamation of the Registration and the Vaccination Departments, submitted by the Town Council No. 4269, be recorded.” *Carried.*

The Corporation on 19th June 1902, considered letter to the President, from the Acting Chief Secretary to Government General Department, dated the 17th May last, with regard to the charge of vaccination work in the city. The letter states :—
“The Governor in Council is advised that as public vaccination is one of the matters for which the Corporation may provide in their discretion the Health Officer can, by arrangement between Government and the Corporation be appointed under Section 3 of Bombay Act I of 1877 to the charge of vaccination work in the City. His Excellency the Governor in Council considers that in Bombay as in Calcutta, the responsibility for vaccination and for the registration of births should be in the same hands. Should the Corporation desire that the Health Officer should undertake this duty, Government are prepared to make the arrangement described in the following paragraph. Government, I am to say, have undertaken the construction of a Central Vaccination Depot at Parel, which they are prepared to hand over with its site to the Corporation on the understanding (a) that the Corporation undertake the whole management of vaccination in Bombay City including all administration charges, and the pay of the Assistant Superintendent of Vaccination and (b) erect on a site which

Government are prepared to give on a nominal rent a Vaccination Station in the Fort for which plans and estimates have been prepared at an approximate cost of Rs. 15,000. I am to request that Government may be favoured at a very early date with the views of the Corporation on the arrangement proposed."

The Hon. Mr. Mehta moved that the letter be recorded and that Government be informed that this was a question which ought to be taken into consideration along with the question substituting different heads of liability in respect of police and medical relief.

Dr. Katrak seconded the proposition which was adopted.

The Corporation on 4th February 1897, passed the following Resolution:—

Proposed by the Hon'ble Mr. Abdalla M. Dharamsi—
Seconded by the Hon'ble Mr. P. M. Mehta C. I. E.

"I. That, in the opinion of the Corporation, it is necessary that the Commissioner should, under the provisions of section 368 of the Municipal Act, give public notice, if such notice has not already been given, calling upon the occupiers of houses to collect all dust, ashes, refuse and rubbish from their respective premises, and to deposit the same in the public receptacles provided for the purpose.

Removal of
rubbish.

"II. That in future the provisions of sections 368 and 372 of the Act be stringently enforced.

"III. That hand-bills in English and in the Vernacular languages be issued, informing the public that, under the provisions of section 368 of the Municipal Act, it is incumbent on occupiers of all premises to carry out the provisions of that section and that, under the provisions of section 372 of the Act, it is an offence to throw or place any dust, ashes, refuse or rubbish, or any excrementitious or polluted matter on streets and gullies, and that persons so doing are liable to a penalty of Rs. 50, and that in future the provisions of sections 368 and 372 will be stringently enforced."

In order to expedite the removal of refuse and to assist tenants to keep their premises clean it was suggested that the system of sending carts from house to house would be a great convenience. The Health Officer in his letter No. 141 dated 3rd April 1900 to the Commissioner stated that a cart could be sent from house to house in

System of
sending carts
from House
to House.

certain sections of the city, but as to the system working successfully it was quite another matter. Dr. Weir, was of opinion that the system would not be a success and it would be more expensive than the present one.

AIR ANALYST.

A proposal was made to the Corporation in 1894, to appoint an Air Analyst and the question was deferred pending the receipt of the Municipal Commissioner's report on the air analyses experiments. Nothing however appears to have been done up to 1900.

DRAINAGE PIPES, CESSPOOLS &C.

Drainage
pipes.

Major Tulloch was asked to give his opinion on the following points. (1) Are J. C. Edwards pipes comparable to Doultons? (2) Are they London made? (3) Are they stoneware or fireclay? Factory said to be in Cornwall. To which Major Tulloch replied as under (1) made at Ruabon, North Wales. (2) Very fine fireclay. (3) Good pipes for ordinary Sewage purposes but not reputation of Doultons. (Corporation 1894-95.)

Existing
cesspools.

In A ward there are 27 cesspools, in B ward 32, in C ward 6, in D ward 671, in F ward 316 and in G ward 826.

Public lat-
rines.

In A ward there are 8 public latrines, in B ward 15, in C ward 7, in D ward 4, in E ward 18, in F ward 6 and in G ward 4.

Cesspool
carts.

There are in all 126 cesspool carts employed to empty cesspools, the largest number being in E ward and the lowest in C ward. In A, B and C wards the cesspools are emptied once in 24 hours, in D ward every 2nd or 3rd day, in E ward daily as far as possible, in F and G wards once in every 3 or 4 days.

There are in all 2,005 bhungies for cleaning privies and public Latrines in all wards the highest number 414 being in E ward and the lowest 170 in G Ward.

No. of bhungies for cleaning privies and public latrines.

On the 25th November 1898, the Committee of the Corporation recommended the adoption of the Commissioner's proposal made in his letter No. 11915 dated 11th August 1898 for the extrication of living persons from the debris of fallen houses and the Corporation approved of the recommendation.

Fallen houses and extrication of living persons.

In the year 1891, the Corporation appointed Mr. (Now Sir) Charles Ollivant as their representative at the International Congress of Hygeine and Demography in England.

Congress of Hygeine and Demography.

Number of males born to every 100 females.

	1890.	1899.
Madras	104.2	103.9
Bombay	108.5	108.01
Bengal	111.0	105
N. W. P. & Oude...	110.7	107.48
Panjaub	114.8	109.6
Lower Burmah ...	108	108
C. Provinces ...	107	105.29
Assam	109.6	106.08
Hyderabad (British).	106	106.4
Ajmere	124.08	117.47

An adjourned meeting of the Corporation was held in the Municipal Hall on 15th August 1901, Mr. D. E. Wacha presiding.

The Corporation considered the following letter from Government.

The Secretary to Government, General Department, wrote on the 28th July with reference to the letter from the Municipal Secretary, to the Municipal Commissioner for the City of Bombay, No. 258, dated the 11th April 1901, that His Excellency the Governor in Council regrets to find that apparently some misapprehension exists both as to the legal position of Government in regard to liabilities on account of the maintenance of the Gokaldas Tejpal Hospital and as to their object in making the suggestions which Mr. Secretary Atkin's letter No. 1261 of the 4th March, 1901, was intended to convey. Government are advised that the contractual position as between themselves and the Corporation in respect of the Gokaldas Tejpal Hospital is that while Government are responsible for the maintenance of the fabric and for the salary of the Medical Officer, the Corporation are equally pledged to provide Rs. 3,000 per mensem for current expenses.

Goculdas Tejpal Hospital.

It has never been contended by Government that, except in regard to infectious diseases, the Corporation are subject in the present state of the law, to any statutory obligation to provide hospital accommodation, though, apparently, the Corporation enjoy discretionary power in that respect. The absence of such an obligation, however, does not, as the Corporation have assumed, impose upon Government the liability for the provision of medical relief in the City. Accepting in regard to this particular hospital the contractual position as it stands, the Government desired to invite the co-operation of the Corporation in devising the best means for the development of its resources in the interests of the sick poor among the non-European sections of the community and the Governor-in-Council ventures to express the hope that the Corporation will not continue to refuse its support to this benevolent endeavour on behalf of a cause in which the origin, constitution, and purpose of the hospital indicate joint action as peculiarly appropriate.

On the motion of the Hon'ble Mr. P. M. Mehta, the question was referred to a Committee.

A proposal was made by Dr. Khory at the Corporation Meeting of 10th December 1888 that Government be informed that the Corporation was prepared to take over the entire charge of the management and maintenance of the Goculdas Tejpal Hospital. The proposition for want of a seconder was not considered.

BURIAL GROUNDS.

The following information was furnished to Dr. Weir by Mr. Barrow and which has appeared in the Census Report of 1881.

“ Among the first reference to places for the disposal of the dead, met with in the old books relating to Bombay, is that of the English burying-ground at Mendham's Point, the site of which was probably part of the vacant ground fronting the Municipal Office. Thomas Mendham was the first Englishman who died in Bombay, and the cemetery opened for his interment continued to be used until 1760 or 1763, when, for military purposes, it was closed, and the tombs broken down and the surface levelled. One of the first sights that cheered the sailor arriving in the harbour upto that time had been these tombs.

As to the burning-grounds, Mr. J. Douglas, in his book of Bombay, says that in March 1677, Governor Aungier agreed with the Banians who came from Diu to settle here, that they 'should be allowed to burn the dead'; Dr. Fryer, who first visited Bombay in 1673, states in his delightful old book, that 'on the other side of the great inlet to the sea is a great point abutting against Old Woman's Island' (Colaba) 'and is called Malabar Hill, a rocky wooden mountain yet sets forth long grass. A top of the hill is a Parsee tomb lately raised.' When the cemetery at Mendham's point was closed, the English burying ground at Sonapoor, was opened, and when, in its turn, that was shut up on the last day of 1868, about 17,000 bodies had been interred within its narrow limits. A scurrilous writer who resided in Bombay in the days of Governor Duncan, or Sir Evan Nepean and about the year 1814, published an amusing book in London called *Quy Hay*, gives an illustration of the cemetery, which he called "Padre" Burrows "Godown". Adjoining this cemetery is the Mahomedan burying-place, which appears to have been in use from time immemorial, and is still the chief place of sepulture for Mussalmans. So far as I am aware, however, it was only in 1812, that this burial ground was formally recognized as such. Countless thousands of bodies have been buried here, but as this Community do not follow the European method of confining a body in an air-tight coffin, but simply place the dead in immediate contact with the earth, the decomposition of the remains is marvellously rapid. The neighbouring Portuguese cemeteries had also been in use for centuries, but in 1868, Mr. Crawford the Municipal Commissioner succeeded in getting them closed, together with all the other (except one) places of intramural interment for Christians.

"Long before that time, however, the difficulty of providing for the disposal of the dead occupied the attention of Government, and in September 1845, the Grand Jury made a presentment at the Sessions to the effect that the Board of Conservancy should take into consideration the necessary measures of abating the abominable nuisance resulting from the burying of the bodies of low-caste Hindoos, and of dead cattle and other carrion in Back Bay. But although this nuisance was complained of as intolerable; it had to be tolerated many years longer.

The proposal to provide a substitute on the salt morass or flats was discussed for the next seven years following, and when in July 1852, Government sanctioned the formation of the burying-place on the flats—on Mr. Conybeare's plan and estimate—at a cost of Rs. 5,146, it was 'on the clear understanding, that should the nuisance anticipated by Government be experienced, the board would be required to remove the same'. There was a very general practice, too in those days among Brahmins, Sonars and the higher caste Hindoos of burying the bodies of still borns and newly born infants dying before the ceremony of name-giving, in the immediate vicinity of the parent's houses, in the courtyard, and in the more crowded parts of the city, even under the bathing place. This very dangerous practice was brought to light by Dr. Leith in his Mortuary Report for 1850, wherein he added that this practice is not enjoined by the Shastras. The Senior Magistrate of Police, Mr. Spens, was written to by Government for opinion and report on this statement; and in reply Mr. Spens expressed his concurrence with Dr. Leith as to the necessity for stopping such a practice. Mr. Spens stated that he had consulted a Shastree Mr. Govind Narayan, of the Suddur Adawlut, who, in replying as to whether the practice was a merely local one or is one enjoined by the Shastras, wrote :—' In this way it is the practice to bury the dead bodies of little children. The Shastras enjoins, however, that their dead bodies should be buried in unpolluted ground, outside the town, different from the usual burying-grounds, and containing no dead bones; and owing to the difficulties offered to burying in such ground, belonging to others, the practice of burying near dwelling houses has obtained. The above is the custom of the country, and if it be prevented, and if unpolluted ground containing no dead bones be allotted for the burial of deceased children, it will be an excellent measure in my opinion, and accordant with the Shastras.'

" The most important result of these investigations was the report to Government written by Dr. Leith in 1855 (in his Mortuary Report) for 1854—a year, in which it may be remarked in passing, that the deaths from Cholera numbered 3,353. Therein he wrote :—

" 'The disposal of the dead ought to have more attention than has yet been given to it, for as it is now prac-

ticed, there is much in it that is very objectionable; and in considering this matter, it has to be borne in mind, that the clandestine domiciliary interment of infants, which was first noticed in the Report for 1850, still remains unchecked, affording facilities for the undetected commission of infanticide, and contributing to the pollution of the air of dwelling houses, through the decomposition of the bodies interred in or near them.

“ ‘The state of several of the burial grounds, both Musulman and Hindu, is such as to require immediate amendment, as the foul gases that taint the air in their neighbourhood are detrimental to health. The burial ground on north side of Grant Road may be mentioned as one of these. There is a burial ground, however, which is so horrible and shameful, that it seems only to require to be brought to the notice of Government to have it suppressed, it is that for Hindoos at Sonapur. The exact size of the ground is not, I think, clearly defined; the Policemen on the spot said there was an order that no grave should be dug below high water mark; but the tides vary in height, and there was nothing to indicate the limit towards the sea. I had the breadth of the ground measured from the outside of the outmost grave, where it was still wet from the retiring tide, to the wall of the Musalman cemetery, and also its length north and south, as pointed out by the men on duty; the area was found to be 10,581 superficial feet. Knowing that during the last seven months 2,711 bodies had been interred there, it may be concluded that in the course of a year the number will be nearly 4,649; and reckoning the due proportion of these as children, it is calculated that were the year's number of bodies laid at the same time, shoulder close to shoulder, without intervening space, they would not only completely cover the whole area, but they would have to be laid in two tiers, the second equally closely packed as the first, and there would still be more to form part of a third tier of corpses.

“ ‘The rapidity with which the bodies decompose is marvellous; and yet the short time that is actually required for the process is liable to be cut still shorter at Sonapur, for the man in charge of the place said that eight days was the time under which it was prohibited to reopen a grave for a new burial. He pointed out a grave

just then dug, from which the remains of one who had been buried a month before were being taken up, to make room for another occupant. Were decomposition in this sandy soil not so rapid, it would of course be impossible that so many dead could be deposited there; yet as in putrefaction the soft solids of the body are changed into poisonous gases, the greater rapidity of the process does but the more intensely pollute the air, by giving a larger quantity of those gases in a given time. The moral effect of such a scene on those who resort to this place to deposit their dead must be bad, and on those also who become habituated to its horrors, which are sometimes even aggravated in the monsoon, by the surf washing the newly interred from their graves.

“ ‘Along the shore of Back Bay there are several other grave yards, and also a depository for dead cattle, the stench from which also is most disgusting, and overpoweringly offensive, and all these are to the windward of the Native Town, which has its sea breeze, that would otherwise be healthgiving, thus poisoned. It is likely that the unwholesome emanations are one of the causes why Girgam has what is thought to be a proportionately high mortality when cholera is epidemic.’

“ ‘At that time (1855) the more thickly populated parts of the city were liberally provided with centres of air contamination, as will be observed from the fact that the official list of places for the disposal of the dead, recognized by the Police, numbered nearly seventy.

“ ‘In the previous year (1854) the Board of Conservancy requested the Senior Magistrate of Police to draft a Bill for the removal of the abuses and evils resulting from burials in the crowded parts of the town. Under the provisions of the Bill as drafted, that Board was empowered, with the sanction of Government, to prohibit the burial, burning or exposure of the dead at any particular place; domiciliary interments were forbidden, and persons committing misdemeanors against the provisions of the Bill were to be made liable to a fine of Rs. 1,000 for each offence and to imprisonment extending to one year.

“ ‘There was naturally a good deal of opposition to the Bill, and especially in regard to a suggestion that had been made by Dr. Leith to the effect that the new cemeteries

should be confined to the Northern Extremity of Bombay, and that railway trains should be run daily for the conveyance of funeral parties. On this point a Hindu wrote as follows:—

“ ‘I conceive that when Dr. Leith made the proposal to carry the dead by railway, he could not have been acquainted with the prejudices of the Hindoos; they can never adopt the plan, the near relatives and friends of the deceased will never allow other castes to touch the body, which they are obliged to carry on their own shoulders until it is laid on the pile. Dr. Leith’s proposal is, therefore, not in consonance with the religion of the governed; and supposing, for argument sake, they are prevailed upon to do so, still with regard to time, how can the plan succeed, for one may die in the morning, the other at noon, and the third in the evening, and it is impossible they can be kept over until the time of the train? Besides they cannot be carried together, for their religious prejudices cannot admit of it; it is a religious custom with them, that those that attend the funeral never take any food until the dead body is either burnt or buried, and they have returned home and washed; and the people in the house, and near relatives also cannot eat anything until the body is removed from the house, and burnt or buried. The Parsees’ religious custom can never admit their bodies being removed in railway carriages, and they will likewise have a great objection to the power being allowed to any one to close any of their cemeteries at any time, on some of which they have spent upwards of a lakh of rupees.’

“ The draft underwent considerable modification, in the mean time Government Resolution dated 5th October 1855, directed the Senior Magistrate of Police to issue orders for the total and immediate discontinuance of a burials in the sands of Back Bay, and as the order was vigilantly carried out, the nuisance was at length put an end to.

“ In 1863 a ‘Burial Commission’ was appointed by Government, and on the 11th February 1865 the Commission recommended a scheme for the concentration of the cemeteries at or near Matoonga, and the setting apart of 252 acres of land for that purpose, at a cost estimated by one Engineer at Rs. 11,89,350. A Committee of Engineers,

appointed by the Municipality to report on the scheme, came to the conclusion that more than one-third of the 252 acres was a foot and a half below the level of high-water mark; and that the total amount of the estimate should be Rs. 22,89,130, including 10 lakhs for raising all the ground above high-water mark. The Committee were further of opinion that the complete project, including building Towers of Silence, Railway communication, &c., could not be carried to completion under Rs. 47,30,416.

“This great scheme fell through, and the question of shutting up the old cemeteries and providing new ones was one of the first questions that engaged the attention of Mr. Arthur Crawford when he became Municipal Commissioner in 1865, but it was not until the close of 1868 that the new cemetery for the Christian dead at Sewree was formally handed over for burial purposes. This ground was formerly the Horticultural Gardens, and was given to the Municipality by Government. As soon as this new cemetery was ready for use, the old Christian cemeteries at Sonapore, Marine Lines, and Girgaum were closed. The one in Marine Lines had been open since the 7th May 1826. For the Christians under the jurisdiction of the Archbishop of Goa, however, a separate burial ground was provided at Matoonga. It was not until near the end of 1870 that Colaba cemetery—which, opened in the year 1816, had, like all the other old burying-grounds become horribly overcrowded, for more than 4,000 corpses were interred there—was shut up. An American cemetery (opened in 1813) was also closed about the same time, a new ground, near Antop Hill being given to the American Mission Church in place of the one which was closed, and new cemeteries were opened, on land granted for the purpose by Government at Matoonga, for the Parthna Somaj, the Armenians, Low-caste Hindoos, and for a section of the Jewish Community. At this spot, too, the Chinese have their last resting place on earth. Close by there is an old disused burying-ground formerly used as a cemetery for the European Artillery men stationed at Matoonga. A village notoriously fatal to the troops kept in garrison there, whilst those who did not die off were pretty sure to be attacked by guinea-worm. The cemetery has not been buried in for more than half a century past, but some of the tombs are still in fair repair.

"Until the year 1870, Mr. Crawford was unable to induce the Trustees of the burning-ground at Sonapore to do anything to improve the very discreditable condition of the walling round the ghat, but after threats of closing the place, the new Committee of management consented to do what was necessary, built up the existing boundary wall, and levelled and improved the ground. The Committee also stopped several abuses at the yard, and by its wise action reduced the cost of cremation by nearly 50 per cent.

"In the year 1871 Mr. Crawford found that although cremation is the proper Hindoo mode of disposing of the dead as it is certainly the most cleanly of all modes, yet poverty obliged the relatives to bury nearly 6,000 corpses per annum, out of a total Hindoo mortality of 10,500 persons. Believing that this fact was not known to the leaders of the various castes, he addressed a letter to all Hindoo Justices, and convened a meeting at which various resolutions were adopted, not merely to remedy this state of affairs, but to improve the general condition of Hindoo cemeteries and burning-ghats.

"A somewhat similar course was at the same time adopted by the Mahomedans in regard to improving their cemetery at Back Bay, for under pressure from the same authority they walled in the cemetery."

Upto 1875 the burying of the dead in the Hindoos burying-ground on the Flats was let by contract. In 1874 Rs. 800 were paid for the right of burying the dead: this was not a system calculated to secure a correct return of the number of deaths, and it was therefore abandoned.

On the 17th November 1892, the Corporation considered the report of the Committee appointed to report on the question of the purchase of ground for the disposal of the dead of the Mahomedan and Beni-Israil Communities. The Committee recommended the purchase of a plot of land admeasuring 66,000 square yards belonging to the estate of Mr. Ravjee Jeevanji at a cost of Rs. 3/8 a square yard in lieu of the proposed site at Anjir Bagh. The consideration of this report occupied two meetings and on 21st November 1892 an amendment moved by Mr. Selim Solomon that the report be recorded and the Municipal Commissioner be requested to ascertain and

Jewish and
Mahomedan
Burial ground.

report what other suitable plots of land a little more distant from the City are available, was carried by 22 Votes against 21 Votes.

On the 20th July 1893, another Committee was appointed to report on the recommendation of the Municipal Commissioner and this Committee's report was considered by the Corporation at their meeting held on 20th November 1893. The recommendation was that the site at Tank Bunder was in itself suitable for a burial ground. The consideration of this report was deferred pending a report on the proposal made by the Port Trustees that the Corporation should join in the cost of approaches to the new overbridge at Wari Bunder and undertake certain new road extensions.

At their Meeting held on 26th February 1894, the Committee further recommended the adoption of the Tank Bunder site and suggested a scheme showing the proportionate costs to be borne by the G. I. P. Ry., the Municipality and the Port Trust, but the Corporation on the motion of the Hon'ble Mr. Ebrahim Rahimtula referred the question back to the Committee to consider the question of a more equitable apportionment of the cost.

Eventually under their resolution No. 12,034 dated 4th February 1894, the Corporation on the motion of the Hon'ble P. M. Mehta C.I.E. sanctioned the purchase of 28,750 square yards or thereabouts of land adjoining Anjir Bag, Mount Road, the property of Mr. R. J. Ashburner, at a cost of Rs. 1,20,000. Finally on 4th March 1897, the Committee of the Corporation reported that they were of opinion that the whole of the Tank Bunder Burial Ground admeasuring 32,800 square yards should be allocated to the Suni Mahomedan Committee and the plot originally intended to be given to the Beni Israil and Jewish Communities out of this land should not be so appropriated, but that instead a plot equal in area 7,000 square yards out of Mr. Ashburner's land should be given as a Burial Ground for the said Communities. The Committee also recommended that the remaining 21,159 square yards out of Mr. Ashburner's land should be allowed to remain unappropriated. The Committee further recommended the purchase of an additional piece of land admeasuring 29,000 square yards which was available for sale. The recommendations were adopted by the Corporation.

THE SONAPORE CEMETERY.

This Cemetery was opened in the year 1763. Prior to that period, the Cemetery was situated at a place called "Mendams Point," somewhere near the Sailors Home. In this Cemetery were laid some of the Governors and High Officials. In 1863, a bill was introduced into the Council of Bombay to empower the Government to close all burial grounds within the precincts of the town, as prejudicial of health. Of these, the Sonapore Cemetery was the principle. In this Cemetery about 19,333 bodies were buried. In 1867 however this Cemetery was closed and the present one at Sewree opened. Bishop Hardings last act was to consecrate the Sewree Cemetery on 26th March 1867.

List of Burial Grounds.

No.	Caste or Race.	Situation.	Section.	Register No.	Approximate area in square yards.	Average number of Burials.	Square yards per Interment.	REMARKS.
1	Christian.	Golengoe Hill	Sewri	1	52,545	541	97.1	Sewri Cemetery.
2		Dharavi, west side of Matunga and Sion Road	Sion	7	36,171.1	292	123.8	Roman Catholic.
3		Matunga, part of Old English Cemetery	Do.	25	2,570	1	2,570.0	American Mission.
4		Do. east side of Brahma Samaj	Do.	52	2,783	1	2,783.0	Armenian.
5		Portuguese Church Road, Lower Mahim	Mahim	3	347.6	17	20.4	Roman Catholic.
6	Mahomedan.	Do.	Do.	4	1,444.4	95	15.2	Do.
7		Attached to the Church of N. S. de Victoria, Mahim	Do.	39	806.5	24	33.6	Do.
8		Lower Mahim	Do.	53	729	6	121.5	Do.
9		Upper Mahim	Do.	64	1,368	1	1,368.0	Do.
10		Upper Colaba, near Light House	Colaba	16	4,100.97	..	..	Closed, Sunni.
11	Mahomedan.	Do.	Do.	66	4,210	5	842.0	Sunni.
12		Phugla Tandel Street	Oomarkhari ..	11	19,215	381	50.4	Khoja.
13		At Karoot Masjid, Paidhoul Street	Chukla	49	1,551	1	1,551.0	Family of Hadji Esmail
14		Jail Road	Oomarkhari ..	50	1,749	16	109.3	Hadji Hubib.
15		Corner of Charni and Queen's Road	Fanaswadi	13	16,661	4	4,165.2	Sunni.
16	Mahomedan.	Queen's Road	Dhobi Talao ..	24	45,883	2,829	16.1	Do.
17		Do.	Do.	25	3,432	95	36.1	Mogul.
18		Old Sonapore Lane, north side	Do.	32	4,719.59	39	121.0	Kutch-Bhooj Memon.
19		Queen's Road	Do.	55	829	19	43.6	Dandi Borah.
20		Mangol Wadi Lane	Girgam	31	12,752.1	249	51.2	Kutch-Bhooj Memon.
21	Mahomedan.	Charni Road	Do.	36	1,794	10	179.4	Do.
22		Queen's Road	Do.	54	13,513	341	40.0	Dandi Borah.
23		Karal Wadi, on north side of Charni Road	Do.	58	1,511	5	302.2	Shiah.
24		Grant Road, north side	Kamathipura ..	6	17,584	1,329	13.2	Konkani.
25		Danga or Tomb in the compound or enclosure of bungalow known as Eden Hall on west side of Mount Road (Husseinabad)	Tarwadi	57	866	..	..	Tomb of the late Aga Khan.
26	Mahomedan.	East of Parel Tank	Parel	35	2,215	9	246.1	Sunni.
27		Tarwari, near Dharavi	Sion	8	27,402	30	913.4	Khoja.
28		Moree Road, Mahim	Mahim	40	2,840	8	355.0	Kuttri.
29		Dadar Road	Do.	43	835	55	15.1	

No.	Caste or Race	Situation.	Section.	Regis- ter No.	Approx- imate area in square yards.	Average number of Burials.	Square yards per Interment.	REMARKS.
30		Queen's Road, Back Bay	Dhobi Talao ..	10	4,533	1,492	3-0	Hindu burning ground. In a portion of this cemetery children are buried.
31		Walkeshwar seashore	Walkeshwar ..	27	4,879	28	174-2	Bodies buried only, Gosavi.
32		Do.	Do.	62	8,162	17	480-1	In this cemetery children are buried.
33		Tank Bunder	Mazagon	21	30,581	289	105-8	Do. do.
34		East of Khoiwada Village	Sion	34	1,208	6	201-3	Bodies both burnt & buried.
35		East of Govari Village	Do.	37	248	15	16-5	Do. do.
36		Matunga, a strip of unnumbered land south of Tank No. 887	Do.	44	450	1	450-0	Mahar. Belongs to the Corporation.
37		Thakurwadi Village	Do.	46	641	6	106-8	Agri; bodies both burnt and buried.
38		On east side of Naigam Road	Do.	56	300	5	60-0	Do. do.
39		Dharavi Road, Mount Wadi	Do.	33	193-41	5	38-68	Koli do.
40	> Hindoo...	On east side of Sion Road and South-east of Agarwada Village	Do.	59	235-2	3	78-4	Agri.
41		On east side of Sion Road and east and south of Agarwada Village near Santa Tank	Do.	60	1,130	5	226-0	Koli and Bhandari; bodies both burnt and buried.
42		On east side of Sion Road and south-east of Agarwada Village, near burial ground No. 58.	Do.	61	571-1	..	..	Agri; bodies burnt only.
43		Matunga, on east side of Chinese Cemetery and north of Jewish Cemetery	Do.	51	2,266	1	2,266-0	Brahma Samaj.
44		Parel Road, east side	Parel	38	3,400	68	50-0	Brahman; bodies both burnt and buried.
45		Arthur Road	Do.	41	37,891	..	..	Closed; belongs to Corporation.
46		Sewri Road, east side, north of bungalow called the Warran	Sewri	15	6,707	67	85-1	Bodies both burnt & buried.
47		North side of Golongee Hill and south-west of Dhakti Sewri Village	Do.	17	273	1	273-0	Agri do.
48		Clerke Road	Byculla	18	60,190	..	..	Closed; belongs to Corporation.

List of Burial Grounds—concluded.

No.	Caste or Race.	Situation.	Section.	Regis- ter No.	Approxi- mate area in square yards.	Average number of Burials.	Square Yards per Interment.	REMARKS.
49	{	Worli, north side of Love Grove sluices on sea- shore	Worli	14	5,333	4	1,333.2	Bodies both burnt & buried.
50		Haines Road, corner of Mahalakshmi Road	Do.....	19	19,444	..	..	Belongs to Corporation; not used since opening of No. 63.
51		On seashore to the north-west of Worli, Matar- pakhadi near Dharamsala	Do.....	23	6,741.6	3	2,247.2	Bodies both burnt & buried
52		Worli, seashore, to the north-west of Worli Ko- liwada	Do.....	29	795	14	56.7	Do.
53		Worli, west of Worli Middle Pakhadi.....	Do.....	47	6,666.6	3	2,222.2	Do.
54	{	Worli, seashore, to the south-west of Worli Ko- liwada	Do.....	30	708.6	11	64.4	Do.
55		Haines Road	Do.....	63	169,400	5,152	32.6	Belongs to Corporation; bodies burnt here at ex- pense of Corporation.
56		Do.	Do.....	65	2,500	10	250.0	Surti.
57		Do.	Do.....	67	2,709	13	208.3	Lingait.
58		On the seashore between Mahim Fort and Worli Koliwada.....	Mahim.....	45	29,448	796	37.0	Bodies both burnt & buried.
59	{	DeLisle Road, east side	Byculia	48	11,621	62	187.4	Beni-Israel.
60		Grant Road, north side	Kamathipura ..	5	7,260	77	94.2	Registered in name of Mu- nicipal Commissioner.
61		Matunga, south-east side of the Chinese Burial Ground	Sion	20	1,570	2	785.0	Closed.
62	{	Grant Road, south side	Kumbharwada,	9	2,147.46	..	..	..
63		Matunga	Sion.....	28	4,708.4	7	672.6	..
64		Malabar Hill	Walkeshwar ..	2	77,335	1,149	..	..
65	{	Malabar Hill Road	Do ..	12	37,797	1	..	Dadysett family.

In 1869 the Justices of the Peace appointed a Committee to consider how the provisions of the Municipal Act as to sanitation may be amended; this Committee submitted a report in 1870 in which they suggested the following provision to be made in the new Act :—" For the purpose of this Act being more thoroughly carried out, all medical practitioners, whether qualified or unqualified, hakims, native doctors, apothecaries, and midwives shall register their names in a book to be kept in the office of the Health Officer, and all and every such person who was in attendance at the birth of any child, or during the illness of any person dying, within the city, shall duly fill in and sign, and render or cause to be rendered to the Registrar of the district in which such birth or death occurred, or to the registration office, the necessary forms of certificate of births or deaths, which certificates the Health officer shall, on application, forward to any person above described so requiring them. If any person above described shall refuse or neglect to register his name within three months after the passing of this act at the office of the Health Officer, or shall refuse or neglect to fill in, sign, or forward a certificate of birth or death, as the case may be, he shall be liable to a fine not exceeding Rs. 100 for every such offence."

Registration
of medical
practitioners.

In regard to the removal of rubbish &c., deposited in the public streets, the following notification was issued in 1819 :—

NOTIFICATION.

Streets of the Fort of Bombay.

28th August 1819.

Whereas great inconvenience has been experienced from rubbish, materials, cots, Palankeens, &c. &c. &c. being deposited in the public streets and lanes of the Fort, and also from the bad state of many of the private drains which nuisances being in contravention of Art. 22 of Rule Ordinance and Regulation (iii) of 1812 and Art. 7 & 8 of Rule Ordinance and Regulation (iii) of 1815. Notice is hereby given that orders have been given to prosecute and levy the penalties therein provided against all persons so offending. And whereas it has been brought to the notice of the

Deposit of
rubbish &c.,
on streets.

Worshipful Bench that the public thoroughfare of the said streets is also very greatly obstructed by the doors of Coach Houses, Stables, Shops, Warehouses and other buildings opening into and projecting thereon, notice is also hereby given that the owners thereof are forthwith required to cause the said doors to be made to open inwards, and that all persons who shall have failed to do so by the 1st May next ensuing will be proceeded against accordingly.

The notice was republished on 28th March 1828.

This power is still in existence, but the procedure is somewhat different.

Nuisances.

At the Meeting of the Quarter Sessions held on the 28th March 1821, two letters from his Excellency Sir Charles Colville, Bart. complaining of a disagreeable nuisance occasioned by several Lime Kilns worked near his house, and requesting that measures may be taken for their removal. The Justices conceived that they had not the power to remove nuisances of this description. It appears that the nuisance, admits of being removed either by an action at the instance of the owner of the mount or of the tenant against the proprietors of the Lime Kilns as a private nuisance; or by presentment or indictment at the suit of the King, on behalf of all his subjects, before the Grand Jury as a common nuisance.

Under Act III of 1888, the Municipal Commissioner is empowered to refuse to grant a license for lime kilns &c. if in his opinion they are likely to prove a nuisance.

Hospital accommodation for sick at Railway stations and Latrines in 3rd class carriages.

On the 18th January 1888, the Chairman of the Corporation submitted to Government and the Railway Companies, the Health Officer's suggestion regarding the provision of Hospital accommodation for sick at Railway Stations and latrines in third class carriages. The Agent B. B. & C. I. Railway under his letter No. 2911 T, dated 7th March 1888, replied that as regards the provision of latrines in 3rd class carriages the experiments made have proved unsatisfactory and the practice which has been universally adopted in India of providing stations with latrines and timing through trains to stop long enough at certain stations for natural purposes has been found to be the most efficient and cleanly arrangement. As regards the question of accommodation at Railway Stations for sick passengers it was stated that the B. B. & C. I. Railway Company was not bound to provide more

than first aid to the sick and for this purpose arrangements would be made to keep a supply of ordinary medicines at Railway Stations to meet emergent cases.

Mr. Under Secretary Warden replied as under to a reference from the Corporation vide his letter No. 266 P. W. D. dated 4th February 1888:—

“In reply I am to state that this Government is not in a position to order Railway administrations to provide the Hospital accommodation suggested; and to point out that so far as latrine accommodation is concerned, the Government of India having already carefully enquired into the matter, have refrained from issuing any definite orders in the direction suggested.

I am to observe, however, that latrine accommodation is being introduced by degrees into carriages intended for the conveyance of female passengers, which seems all that is at present possible, or even desirable as the average distance travelled by third class passengers is under 50 miles.”

The question of the mortality amongst bullocks of the Health and Market Departments engaged the attention of the Corporation in 1888 and on 21st June of that year the Committee reported on the subject recommending an increased quantity of grain rations which recommendation was adopted by the Corporation.

Mortality of
bullocks of
Health and
Market De-
partments.

The Committee of the Corporation also recommended the employment of horses for drawing Katchra carts over certain parts of the Flats but in the Health Officer's opinion it was not practicable to employ horses in the manner stated and consequently the question was recorded by the Corporation at their meeting held on 30th September 1889.

Employment
of Horses for
drawing
kutchra carts.

In his Annual Report for 1898-99 the Health officer states:—

“If the mortality of the classes is examined according to sex, it will be observed that the mortality of the communities amongst whom the death-rate was highest, was influenced by a high fatality and great loss of female life. Take, for instance, the mass of the Hindu low caste population, the excess of female mortality was equal to 11 per 1,000 and amongst Mussalman as much as 22·6 per 1,000. If we take the classes of low mortality, it will be observed that the excess of female mortality is not great. Amongst Parsees it is 2·8, amongst Jews 3·5, and amongst Europeans 7·2. The plague death-rate of Europeans was only 1·32 per 1,000, the attacks being 20 and the deaths 15, out of a total population of a little more than 11,000 Europeans.

Mortality by
sex.

Mortality
from Plague
by Dwellings.

The course of the mortality by dwellings is almost the same as in 1897, and illustrates the influence of ventilation, though it is not necessary to illustrate by statistics the influence of ventilation on the occurrence of cases any more. The mortality decreased with the height of the dwelling, being nearly 86 per cent. on the ground floor, over 77 on the first floor, 71 on the second floor, 61 on the third floor, 57 on the fourth floor, and 51 on the fifth floor."

Payment of
fees for giving
information of
a birth.

The Town Council on 20th June 1888, on the recommendation of Mr. F. L. Charles, Acting Municipal Commissioner sanctioned the payment of a fee of annas four to any midwife or any person, including Municipal employees (except Registration Karkoons) who gave information of a birth not already reported or registered.

Mortality
from Cholera
by source of
water supply.

In the Annual Report for 1898-99 it is stated that the mortality from cholera according to the source of water-supply shows that 80 people who used Vehar water were attacked, of whom 75 died, and 1 only who used well water. In 29 cases the source of water-supply was not known.

The mortality when analysed, according to the period of residence, exhibits the usual phenomena. Of the total cases 16 were under 3 months, and 8 were under 6 months in Bombay. The mortality by place of birth exhibits the influence of immigration, and the susceptibility of immigrants to cholera. Of the 110 cases as already stated, only 9 occurred among persons born in Bombay.

Milch cattle
stables in
Bombay.

In 1899 there were in all 88 licensed Milch Cattle Stables in Bombay, the largest number 31, was in C Ward and in D and E Wards there were 19 each in A Ward 4 and in B Ward 12, while in F and G Wards there were 2 and 1 respectively.

Female
Medical Edu-
cation.

A proposal to grant Scholarships to Female Medical Students was considered by the Corporation in the year 1887, and after the matter had been fully considered by the then Town Council, the Corporation on the recommendation of that body on the 7th May 1888, sanctioned a Grant-in-aid towards Female Medical Education of Rs. 80 per mensem or Rs. 960 per Annum. The sum entered in a subsequent budget was Rs. 1000 per Annum.

Automobiles.

A report from the Municipal Commissioner on the subject of Automobiles will be found in the proceedings of the Corporation for the year 1895-6. The Corporation under their resolution No. 13,640 of that year recorded the said report.

LEPROSY.

The question of Leprosy attracted Mr. T. B. Kirkham's attention in 1889. Owing to defective regulations of persons affected with Leprosy, he asked the Municipal Commissioner to report what additional powers, if any, were required by the Health Department to enable it to deal effectively with the evil. The Municipal Commissioner Mr. (now Sir) E. C. K. Ollivant submitted the following report to the Corporation which enters into the details of the question relating to Leprosy :—

No. 7004 of 1889-90.

BOMBAY, 18th July 1889.

TO THE MUNICIPAL SECRETARY.

SIR,—I have the honour to forward a copy of the Health Officer's remarks on the question of dealing with leprosy. (See Resolution of the Corporation, No. 56, dated 4th April.)

2. I imagine there can be little doubt that leprosy is a 'dangerous disease' as defined in Section 3 of the City of Bombay Municipal Act, 1888, and therefore the use of public conveyances by persons suffering from that disease is punishable under Sections 428-431. The sale of articles by such persons is punishable under Section 432 of the Municipal Act, and probably also under Section 269 of the Indian Penal Code. Under Section 424 of the same Municipal Act, such persons, if without proper lodging, or if lodged in building occupied by more than one family, may upon medical certificate, be removed to a special hospital, or other similar place. The majority of such persons are beggars and are liable to be arrested and punished as beggars under the Bombay City Police Act.

3. These, as far as I am aware, are the only provisions of the existing law which can be used to place any restriction on lepers, and even these are only fortuitously applicable and in so far as they may be applicable, are besides totally inadequate. Persons suffering from this disease may be seen in almost all places of public resort, at the public wells, at the railway stations, and in the close vicinity of the markets. As regards those lepers who are paupers, no remedy for the present state of things can be applied, for in the absence of any special leper hospital no action can be taken by Municipal or Police Officers, or by the magistracy, which will prevent these people from returning to their old haunts.

4. The only remedy lies in measures for special hospitals and compulsory segregation. For compulsory segregation, fresh legislation is required, and I am happy to see that this subject is

now engaging the attention of the Government of India. I append to this letter for the information of the Corporation, copy of a Draft Act which I have recently received. For special hospitals retreats or asylums, special funds will be required, to be provided either by taxation or charity, or both combined. I think that segregation should be insisted on equally in the case of rich and poor, such segregation as may be necessary to protect the public from the risk of catching the disease and from the disease being perpetuated. In the case of the well-to-do, the segregation may be effected by family or private agency independently of any public asylums, but for the poor, public asylums are indispensable, and for rich and poor alike there should be such a measure of control as will prevent the public health from being jeopardized, and ensure the opportunity of proper treatment for the sufferers.—I have, &c.,

E. C. K. OLLIVANT,
Municipal Commissioner for the City of Bombay.

No. 6429 of 1889-90.

BOMBAY, 14th June 1889.

TO THE MUNICIPAL COMMISSIONER.

MEMORANDUM.—By the last census 430 lepers were enumerated. There are now probably more than twice that number of lepers. In the Dhurumsala in Byculla there are 78 men, 79 women and 12 children.

Under the Municipal law the lepers cannot be interfered with practically. Lepers wander through the city, live where they please, and associate with people who are not lepers. Lepers even sell in the streets. Not only are there lepers propagating leprosy, but there are some families in which leprosy may be said to be hereditary. As to the necessity of removing lepers from the city and isolating them there can be no doubt. I will give one instance of the danger of freedom to lepers. On one evening while inspecting a bakery, I found a leper inside the bakery and, as I suspected, living in it. This leper was a European, strange to say. In any measure for dealing with lepers, there are two important considerations to be kept in mind, (a) are lepers to be treated as persons committing a nuisance and summoned before a Magistrate? (b) are rich lepers to be treated like poor lepers?

If a measure is in contemplation to deal with lepers, and if it is proposed to deal with lepers after the procedure adopted in dealing with offences against the public health, that measure will be a failure. I would earnestly urge that there is only one way of dealing with lepers, and that way is by segregation. The lepers will have to be removed, for willingly they will not leave the city. In reply to the Resolution of the Corporation, No. 56

of 4th April last, inquiring "what additional powers, if any, are required by the Health Department to enable it to deal effectively with the evil" I would answer: the power to remove lepers, rich and poor, to a place set apart for lepers.

T. S. WEIR,
Health Officer.

No. 2607.

GENERAL DEPARTMENT.

Bombay Castle, 3rd July 1889.

RESOLUTION.

"In Home Department Resolution of 26th September 1888 the Governor-General in Council encouraged the grant of medical and charitable relief to lepers in voluntary Hospitals and Leper Asylums, and directed that the condition of segregation of the sexes should be imposed in the case of every institution for the relief of lepers which receives aid from public funds. Having again considered the subject, His Excellency in Council thinks that some further measures may now be taken with the object of promoting the establishment of asylums or retreats for lepers; and giving legislative sanction to the retention of lepers in such retreats. The Governor-General in Council has therefore directed the preparation of the Bill herewith circulated for consideration and opinion, in which provision, is made for the detention of lepers, generally on their own application, and in certain cases compulsorily, under the orders of the District Magistrate, in retreats provided for their accommodation. His Excellency in Council now requests that the Local Governments and administrations will take the Bill into their early consideration, and favor the Government of India with their views on the provisions contained in it after consulting official and non-official opinion in the matter. The Governor-General in Council will also be glad if, in submitting their reports on the Bill, Local Governments and Administrations will state whether in the opinions of persons qualified to form a judgment the disease of leprosy is on the increase or not.

"A point of minor importance connected with the subject under discussion, is the payment of expenses connected with the removal and confinement of lepers found in a province or district which is not that of their domicile. As at present advised, the Governor-General in Council doubts if it will be expedient to go beyond the principle that expenses incurred in removing vagrant lepers to hospitals or asylums shall be borne by the persons or authorities desiring to remove them, but he will be glad to receive the views of Local Governments and Administrations on the point."

RESOLUTION.—Copies of the Resolution of the Government of India and of the Bill* accompanying it should be forwarded to the Honourable the Chief Justice and Judges of Her Majesty's High Court of Judicature, the Commissioners of Divisions, the Commissioner in Sind, all Collectors and District Magistrates, all Educational Inspectors, the Sanitary Commissioner, the Remembrancer of Legal Affairs, the Inspector-General of Police, the Commissioner of Police, Bombay, the Municipal Commissioner for the City of Bombay, and the Honorary Secretary, Edalji Framji Abless Leper Home, Trombay, for favour of their early opinion.

2. The Surgeon-General should be asked to obtain and submit with his own observations the opinions of some of the professional men who have given attention to this subject, and also of Dr. Peehey Phipson. The persons to be consulted need not be exclusively officials.

J. DE C. ATKINS,

Acting Under-Secretary to Government.

Thereupon the Corporation on the 13th August 1889, passed the following resolution:—

“That the Corporation learns with much satisfaction that the Government of India contemplates early legislation with the double object of preventing the spread of leprosy and ameliorating the present condition of lepers.

“That the Corporation further records its general approval of the principles of the draft Lepers Bill, and expresses its opinion that the object of the Bill being to prevent the spread of leprosy which has reached that stage at which it endangers public Health, the words “Leprosy” and “Lepers” should be clearly defined in the Bill.

“That the President be requested to acquaint Government with these resolutions for communication, if Government be so advised to the Home Department of the Government of India.”

The Director of Public Instruction requested Government to take early steps to remove the lepers who had taken up their quarters on the flags surrounding the large Nacoda Tank which lies between St. Xavier's College and the Elphinstone High School.

Government Resolution (No. 3,102 of 3rd August 1882) bearing on this subject was as under :—

“The Nacoda Tank, and the pavement surrounding which the lepers in question are stated to have located

Removal of
Lepers around
the Nacoda
Tank.

* See Corporation Record.

themselves in large numbers, is in the possession of the Municipality. The Municipal Commissioner for the City of Bombay should therefore be requested to take early measures towards the ejection of the lepers from that property and to see that they do not again resort to that place in future.

"As remarked by the Commissioner of Police, Bombay, what is needed to prevent lepers from thus establishing themselves in certain inconvenient localities or loitering about the public streets to the great danger of the inhabitants, is the setting apart of a place where these unfortunate persons could be treated. Under Section 424 of the City of Bombay Municipal Act 1888, it is the duty of the Municipality to remove to any hospital or place provided for the purpose any person who without proper lodging or accommodation is suffering from a dangerous disease. The Municipal Commissioner should be requested to provide a suitable place for this purpose as early as possible."

The leprous butcher's case caused a little excitement in July 1889, one Rama Tookia, the Leprous Hindu butcher and Shaik Rajab were charged, at the instance of the Municipality, at the Girgaum Police Court with bringing a quantity of meat unfit for human consumption from Coorla to Bombay. His Worship in convicting both the accused fined them Rs. 50 and Rs. 20 respectively. In subsequently addressing the Court the Magistrate said that as Rama had no money to pay the fine, a distress warrant would issue and his bullock and cart would be sold, so that he would be prevented from conveying meat from Coorla in future. There was, he went on to say, considerable objection to sending Rama to jail, as there was no means of segregating him from the other prisoners except by subjecting him to a good deal of hardship. If he were sent to prison, he would have to be incarcerated in the civil side of the jail where he would probably be ordered to remain for fifteen days at the expense of Government, and at the risk of spreading the disease to the other prisoners.

Prosecution
of Leprous
butchers.

Another leprous butcher was similarly charged and was fined Rs. 50.

On 7th February 1890, Government addressed the following letter No. 630 to the Corporation :—

Home for
Lepers.

“I am directed by His Excellency the Governor in Council to inform you that Sir Dinshaw Manekji Petit has offered to Government the sum of one Lakh of rupees for the purpose of building a Home for Lepers in Bombay subject to certain conditions. One of these is that the Home is to be equipped and maintained by those who are responsible by law for the maintenance and equipment of such Institutions. In these circumstances I am to ask you to be good enough to inform Government whether the Municipal Corporation are prepared to accede to the wishes of the generous donor.

D. MACKENZIE,
Ag. Chief Secy. to Government.

On the motion of the Hon'ble Mr. P. M. Mehta C. I. E., the following proposition was unanimously carried :—

“That Government be informed with reference to letter No. 630, General Department dated 7th February 1890, that the Corporation without admitting such legal liability on the part of the Corporation as is implied in that letter are of opinion that the liberal offer of Sir D. M. Petit should be accepted on the conditions stated, and that though the Corporation will be ready to undertake those duties with regard to the maintenance of a Leper Asylum which devolve upon them under the Municipal Act, they venture to express the hope that Government may see its way towards making a substantial contribution towards the expenses of the Institution.

“That in the opinion of the Corporation it is very desirable that advantage should be taken of the visit of H. R. H. Prince Albert Victor of Wales to invite H. R. H. to lay the foundation stone of the proposed Leper Asylum as his illustrious father has taken such a leading part in the efforts that have recently been directed both towards the amelioration of the condition of persons suffering from leprosy and towards the control and eradication of that terrible disease.”

On the 24th March 1890, Government informed the Corporation that a site for the Asylum had been selected at Trombay and that H. R. H. Prince Albert Victor of Wales had consented to lay the foundation stone of the

building on 25th March and that as many members of the Corporation as could conveniently attend should be present at the ceremony.

The Ceremony accordingly took place.

The question of Destitute Lepers, was considered by the Corporation in connection with the following representation :—

No. 2911 OF 1890.

GENERAL DEPARTMENT, BOMBAY CASTLE, 23rd July 1890.

To KHAN BAHADUR MUNCHERJI COWASJI MURZBAN,

ASSOC. M. L. C. E., F. R. I. E. A.,

President, Municipal Corporation, Bombay.

SIR,—I am directed by His Excellency the Governor in Council to forward herewith extract paragraphs 1—8 of a letter from the Commissioner of Police, Bombay, No. 2937, dated 26th May last, and to request that you will be so good as to move the Municipal Corporation to take measures to prevent the recurrence of such cases as the one reported by Colonel Wilson. I am to add that if in fulfilling the duty assigned to it by Section 61 (g) of the City of Bombay Municipal Act of 1888, the Corporation finds itself embarrassed by want of legal authority, the case may be stated to Government with a view to further legislation.—I have, &c.,

Destitute
Lepers.

J. NUGENT, Chief Secretary to Government.

Extract paragraphs 1 to 8 of a letter from the Commissioner of Police, Bombay, No. 2937, dated 26th May 1890.

“With reference to Government Resolution No. 601, dated 31st January 1890, Judicial Department, I have the honour to report that in the present state of the law, the lepers are masters of the situation.

2. There is no separate accommodation in jail for lepers, and Magistrates will not convict under Section 85, Act 13, of 1856. The same is the case with Section 291 of the Indian Penal Code, and as regards Section 424, Bombay Municipal Act 3 of 1888 and Act VI of 1867, the provisions cannot be carried out, whilst no place exists for the reception of the lepers and for their detention pending despatch to the asylum or other place appointed.

3. On the 5th of April last I wrote to the Executive Health Officer to provide a place of detention for the lepers, pending their despatch to Trombay or Ratnagiri, copy of that letter (No. 1824—6 of 5th April 1890), with the Municipal Commissioner's reply No. 3266 of 21st May 1890, is attached.

4. At the time I addressed the Executive Health Officer on the subject of providing a place of detention, I had ascertained that the Trombay and Ratnagiri asylums were not quite full,

and it was my intention to fill up the vacancies; but that is now impracticable, as the asylums are reported full, and until a place of detention is provided, it is also impracticable to attack the matter.

5. A new phase of the leper question has now arisen owing to the distressing case of one Luxumon Gunnoo, a leper who died in charge of the Police. The circumstances were as follows.

6. P. C. ^C₆₄₆ found a Hindu leper, named Luxumon Gunnoo, aged 35 years, lying in an unconscious state on the verandah of a house at Lohar Street, Dhobi Talao. The policeman removed him in a reekla to the J. J. Hospital for treatment, where, in consequence of the leper hospital built on the premises being closed, he was refused admission, although the House Surgeon gave him a draught which he was not able to swallow. The policeman was then taking him back, intending to obtain orders through telephone at the Baboola Tank Station from Inspector Nelmes as to where the leper should be taken, and found that he was dead, and therefore took this dead body to the morgue, where an inquest being held, the jury recorded a verdict of death from leprosy, and added that in their opinion lepers found ill on the public streets should be provided with a suitable asylum.

7. From enquiries made regarding the antecedents of the deceased leper, it appears that he has a brother named Dhondur Gunnoo, who states that 5 years ago he did not suffer from leprosy, was employed as a domestic servant in a Parsi family, and lived jointly with him. Since then he had reluctantly to turn him out owing to the horror expressed by his lodgers and neighbours. Being thus left alone he roamed about and lived on alms; about a fortnight back he began to suffer from cough and fever, and growing worse, died as stated.

8. The question now is, what action is to be taken to meet similar cases in the future. In the present instance, if the man had lived, all the police could have would have been to take him back and deposit him where he had been found."

No. 1824—6 of 1890.

Memorandum.—With reference to the letter No. 30003, dated 24th ultimo, from the Executive Health Officer, the undersigned presents compliments and requests that the Municipal Commissioner may be moved to provide some building for the detention of lepers, pending their despatch to leper homes.

W. H. WILSON, COLONEL,
Commissioner of Police.

No. 3266 of 1890-91.

BOMBAY, 21st May 1890.

TO THE COMMISSIONER OF POLICE, BOMBAY.

SIR,—With reference to your No. 1824/6 of 5th ultimo, to the address of the Executive Health Officer, I have the honour to say

that I understand both the Ratnagiri and Trombay Leper Homes are full, and that as regards the latter, at all events, it is found impossible to prevent lepers from leaving it and straying over the surrounding former (?). Even if there were accommodation available in the Ratnagiri Home, I greatly doubt the practicability of deporting lepers to it from Bombay. Under these circumstances it seems to me useless to provide a temporary place of detention for lepers in the city as you request. Any such arrangement must apparently be subsidiary to the provision of a place of final accommodation and detention. Were the circumstances other than they are, I think it probable that the Corporation might hold the view that in consenting to maintain a Leper Asylum, they have done all that can be fairly expected of them. But this branch of the subject it appears to be premature to consider.—I have, &c.,

H. A. ACWORTH,
Commissioner.

On 11th August 1890, the Corporation considered this question with the following result :—

Proposed by Pherozechah M. Mehta, Esq., seconded by Manekji Behramji Dadabhoy, Esq.—

“1. That, with reference to Government letter No. 2,911, dated 23rd July 1890, this Corporation do not acknowledge that it is any portion of the legal duties cast upon them by law to establish or maintain homes, asylums, hospitals or sanatoria for lepers or leprous vagrants.

“2. That they respectfully ask Government to reconsider the step taken by them of closing the leper ward of the Sir J. J. Hospital.

“3. That with the object of co-operating in the work of alleviating human suffering, this Corporation, on the recommendation, of the Standing Committee, sanction a grant for the purpose of defraying a moiety of the cost of temporarily maintaining the leper asylum proposed to be established by public subscription; provided that such moiety does not exceed the sum of Rs. 1,000 a month, and that Government undertake to defray the other moiety of the cost of maintenance.”

Sir Henry Morland raised the point of order that as yet the recommendation of the Standing Committee was not before the Corporation, as the notice of motion given by Mr. Dosabhoy Framji, embodying that recommendation, had not yet been proposed.

The President ruled that the objection was good.

Thereupon Mr. Mehta, with the permission of the President and the consent of the meeting, re-inserted the words "will be prepared."

The motion, as thus re-amended, was put to the vote as follows :—

"1. That, with reference to Government letter No. 4408. No. 2,911, dated 23rd July 1890, this Corporation do not acknowledge that it is any portion of the legal duties cast upon them by law to establish or maintain homes, asylums, hospitals or sanatoria for lepers or leprous vagrants,

"2. That they respectfully ask Government to reconsider the step taken by them of closing the leper ward of the Sir J. J. Hospital.

"3. That, with the object of co-operating in the work of alleviating human suffering, this Corporation will be prepared, on the recommendation of the Standing Committee, to sanction a grant for the purpose of defraying a moiety of the cost of temporarily maintaining the leper asylum proposed to be established by public subscription; provided that such moiety does not exceed the sum of Rs. 1,000 a month, and that Government undertake to defray the other moiety of the cost of maintenance."

Carried nem con.

Mr. Acworth the Municipal Commissioner in his letter No. 9454 of 6th August 1890 forwarded a copy of the Resolution passed by the Homeless Leper Relief Fund Committee at a meeting held on 2nd August 1890, in which they appealed to Government and the Corporation jointly to undertake the work and the expense of maintaining the Leper Home which it was proposed to establish by public subscription.

In the absence of Mr. Dosabhoy Framji (who had given notice of the motion), it was—

Proposed by E. B. Carroll, Esq., seconded by A. G. Viegas, Esq.—

"That, with reference to the Commissioner's letter No. 9,454, dated 6th August 1890, and as recommended by the Standing Committee in their resolution of the same date, sanction be given to an expenditure not exceeding Rs. 1,000 a month for the maintenance of the proposed leper home; the Corporation understanding that the total cost will be Rs. 2,000, but that Government be asked to bear the

other moiety of the expenditure, and the Corporation being advised to state explicitly that this will be a voluntary contribution on their part and that they do not recognise, in granting it, any legal liability."

Amendment, proposed by G. W. Roughton, Esq., seconded by Kaikhosru N. Kabraji, Esq.—

"That, with reference to the Commissioner's letter No. 9,454, dated 6th August 1890, and as recommended by the Standing Committee in their resolution of the same date, sanction be given to an expenditure not exceeding Rs. 1,000 a month for the maintenance of the proposed leper home; the Corporation understanding that the total cost will be Rs. 2,000, and that Government will bear the other moiety of the expenditure, the Corporation explicitly stating that this will be a voluntary contribution on their part, and that they do not recognise, in granting it, any legal liability."

Second *Amendment*, moved by Bhalchandra K. Bhatawadekar, Esq., seconded by R. N. Khory, Esq.—

"That, with reference to the Commissioner's letter No. 9454, dated 6th August 1890, and as recommended by the Standing Committee in their resolution of the same date, sanction be given to an expenditure not exceeding Rs. 1,000 a month for the maintenance of the proposed Leper Home, in accordance with the resolution of the Corporation just passed in that behalf."

On a division, there were 21 votes *for*, and 8 votes *against*, the second *amendment* which was carried as the substantive proposition by 23 votes (*against* none).

The President said that he would address Government on the subject of the last paragraph of Mr. Chief Secretary Nugent's letter of 23rd ultimo, after the Corporation had considered the notice of motion given by Dr. Viegas on the question of the segregation of lepers.

No. 3067.

GENERAL DEPARTMENT.

Bombay Castle, 2nd August 1890.

Memorandum from the Commissioner, S. D. No. 1209, dated 18th April 1890—Submitting a letter No. L.F.—158, dated 12th idem, from the Collector of Ratnágiri, who states that the Managing Committee of the Dinshaw Manekji Petit Leper Hospital, Ratnágiri, passed a resolution at its meeting

Government
Resolution *re*:
contribution
by Municipal
& Local Boards
towards Leper
Asylums.

held on the 3rd April 1890, requesting Government to rule that Municipalities or District Boards from within whose limits lepers come to that Hospital shall contribute towards the maintenance of such lepers at the rate of Rs. 8½ per head per mensem, that sum being the cost for dieting and clothing, &c., one patient; and requests the sanction of Government to the rule as proposed by the Committee: the Commissioner observing as follows:—

“2. It appears to the undersigned doubtful whether Government can pass an order of the nature suggested by the Collector, directing Local and Municipal Boards to make any particular expenditure, but under Section 45 of the Local Boards Act and Section 23 of the District Municipal Act, before any such contribution is levied from other local bodies, an order of Government permitting the contribution will be necessary; and the Acting Commissioner, S. D., suggests that this be done.”

Memorandum from the Surgeon General with the Government of Bombay, No. 3122, dated 6th May 1890—Remarking that the Committee of Management of the Dinshaw Mánekji Petit Leper Asylum must receive contributions to feed and clothe lepers, and that nothing can be fairer than that the Municipalities and Local Boards concerned should contribute for the lepers they may send.

Memorandum from the Remembrancer of Legal Affairs, No. 591, dated 30th May 1890:—

“In a letter accompanying Government memorandum No. 3467 of 19th May 1890, the Collector of Ratnágiri proposes that Government should make a rule that Municipalities and District Boards from within the limits of which lepers are sent to the Ratnágiri Dinshaw Mánekji Petit Leper Hospital should contribute to the maintenance of such lepers at the rate of Rs. 8½ per head per mensem, *i.e.*, the cost of dieting and clothing.

“2. It is not stated under what section of what enactment Government could make such a rule. It does not appear that it could be made under Section 69 of Bombay Act I of 1884 or under any provision of the District Municipal Acts (Bombay VI. of 1873 and Bombay II. of 1884) or of the City of Bombay Municipal Act (Bombay III. of 1888).

“3. It is, however, the duty of Local Boards (Section 30 (b) and (c) of Bombay I of 1884) to make adequate provision not only for the construction, repair, management and maintenance of hospitals and dispensaries for the areas subject to them, but also for sanitary works and measures necessary for the public health (sanitary works being coupled with vaccination indicates other preventive measures than such as relate to mere drainage).

"Measures for preventing and checking the spread of dangerous diseases are also included among the obligatory duties of the Corporation of the City of Bombay (Bombay III of 1888, Section 61 (g)), and similar duties are imposed on District Municipalities by Section 24 (13) and (14) of Bombay VI of 1873, as amended by Bombay II of 1884, Section 49.

"4. If Local Boards, or a Municipal authority in the City of Bombay or any District Municipality, neglect these duties, Government may provide for their execution and recover the expense, under the powers given by Section 66 of Bombay I of 1884, Section 518 of Bombay III of 1888 and Section 42 of Bombay II of 1884.

"5. These duties arise only in respect of the areas subject to the control of the respective local authorities.

"The Ratnágiri Local Board, therefore, is not bound or even empowered to take such measures for the benefit of other local areas, and cannot therefore consent, or be called upon, to increase its contribution to the maintenance of the Hospital to accommodate patients from those areas.

"6. But it is open to any Local Board, with the sanction of Government (Section 45 of Bombay I of 1884) to make, outside the area subject to it, any expenditure beneficial to that area, and similarly District Municipalities also may be empowered* to contribute to expenditure incurred in any area, subject to a Local Board for measures affecting the public health and calculated to benefit the residents within its own limits. There can of course be no doubt that the segregation and care of lepers would fulfil these conditions.

"7. District Local Boards† and Municipalities‡ may also, for purposes of such common interest, concur in making certain arrangements for the construction and maintenance of a joint work, differences arising between them, being referable to Government for decision.

"8. There does not seem to be any restriction on the Corporation in the City of Bombay as to the area within which its expenditure must be incurred, provided that it is for the purposes of duties obligatory or discretionary with them. It does not appear therefore that any sanction of Government would be necessary to enable the Corporation to contribute to the Ratnagiri Dinshaw Manekji Petit Hospital. On this, however, as a matter within the City of Bombay, Government may perhaps prefer to take the opinion of the Solicitor to Government or the Advocate General.

" 9. But it is, of course, to be borne in mind that none of these local authorities can be bound to perform these duties in any particular way. They cannot be *required* to send their lepers to Ratnágiri, or to pay for them when there, unless such payment is made the condition of their admission.

" 10. The Ratnágiri Dinshaw Mánekji Petit Hospital has recently been made a Sanitarium for cases of leprosy under Section I of Bombay VI of 1867, and leprosy has, under Section 12 of the same Act, been declared an infectious disease dangerous to life within the meaning and for the purposes of that Act.

" 11. Lepers may therefore be compulsorily conveyed thither under Magisterial order (Section 4 of Bombay VI. of 1867).

" 12. No alternative is left to the Corporation as the mode in which to exercise in respect of this disease the duties imposed by Section 61 (g) of Bombay III. of 1888.

" 13. It seems doubtful whether the Corporation can be compelled to contribute to the maintenance of the Ratnágiri Dinshaw Mánekji Petit Hospital, as the appointment of the Sanitarium, its Superintendent and its establishment is (Section I of Bombay VI. of 1867), vested by law in Government, and the conveyance of lepers thither seems imposed as a duty on Government officers independent of Municipal action. On this point also, however, Government may wish to take other opinion.

" 14. Probably none of the local authorities in question would decline to make the contributions necessary for the diet, &c., of the patients they deport to Ratnágiri, and if those authorities did decline, the Hospital authorities would apparently be under no obligation to admit such extraneous patients except in the case of lepers conveyed thither under Bombay VI. of 1867."

Letter from the Solicitor to Government, No. 639, dated 19th June 1890—Submitting copy of the following opinion of the Honourable the Advocate General, No. 47, dated 18th idem :—

" With reference to memorandum No. 4128 of the Revenue Department, dated 13th June 1890, I have considered the points raised in Mr. Batty's report No. 591 of 1890, dated 30th May 1890, and am of opinion that Government have no power to direct Local Boards or Municipalities to contribute maintenance-money for lepers sent from their districts to the Ratnágiri Leper Hospital. But it is competent to Local Boards (Bombay Act I. of 1884, Section 45) and to District Municipalities (Bombay Act VI. of 1873, Section 23, amended

by Bombay Act II. of 1884, *Section 49 (d)*), to make such contributions with the sanction of Government, and the Corporation of Bombay can independently vote such a contribution.

“ I suggest that Government should invite the various bodies in question to make the requisite contribution, promising sanction when necessary.

“ No other mode occurs to me of meeting the very reasonable claim of the Committee of the Dinshaw Mauekji Petit Leper Hospital Ratnágiri.”

Letter from the Solicitor to Government, No. 676, dated 30th June 1890.

Letter from the Solicitor to Government, No. 752, dated 15th July 1890—Forwarding a copy the following opinion No. 59, dated 14th idem, of the Honourable the Advocate General :—

“ With reference to memorandum No. 4729 of 1890, Revenue Department, dated 8th July 1890, desiring my opinion specifically as to whether lepers can compulsorily be conveyed from the City of Bombay to the Leper Hospital at Ratnágiri, I am clearly of opinion in the affirmative. Bombay Act VI. of 1867 being in force, and the Ratnágiri Hospital having been established as a Sanitarium for the City of Bombay by the Notification (of 8th January 1890) under the Act, it seems to me to necessarily follow that *Section 4* applies and can be put in operation either by the Consulting Officer of Health (Bombay Act III of 1888, *Section 76*) or by a Health Officer of the Port appointed under *Section 2* of Bombay Act VI. of 1867.

* * *

RESOLUTION.—Copies of the opinion of the Remembrancer of Legal Affairs and of that given by the Honourable the Advocate General under date the 18th June 1890 should be forwarded to the Municipal Commissioner for the City of Bombay and to all Collectors with a request that the Municipal Corporation of the City of Bombay and the Municipal and Local Boards in the Mofussil may be moved to vote funds for the maintenance of lepers whenever they have occasion to send persons affected with the disease from their areas to the Dinshaw Mánekji Petit Leper Hospital, Ratnágiri, or the Albless Leper Home at Trombay.

2. The Judicial Department should be requested to invite the attention of the Presidency Magistrates in Bombay to the opinion expressed by the Remembrancer of Legal Affairs in paragraphs 10 and 11 of his memorandum No. 591, dated 30th May 1890, concurred in by the Honourable the Advocate General in his opinion No. 59, dated 14th July 1890, under which lepers can compulsorily be conveyed from the City of Bombay to the

Leper Hospital at Ratnágiri or the Leper Home at Trombay, both these places having been established as Sanitaria for the City of Bombay for cases of leprosy by Government Notification No. 82, dated 8th January 1890.

J. DE C. ATKINS,
Acting Under-Secretary to Government.

In reply to this resolution, the President was requested to refer Government to para 4 of his letter No. 5243 of 2nd September 1890, and letter No. 574 dated 15th June 1887.

No. 3567.

GENERAL DEPARTMENT.

Bombay Castle, 5th Septmber 1890.

RESOLUTION.—The Municipal Commissioner for the City of Bombay should be informed that Government agree to pay a grant-in-aid towards the cost of the maintenance of the proposed Leper Home at the rate of not more than Rs. 10 per mensem a head for a moiety of the lepers to be accommodated therein and subject to a maximum of Rs. 1,000 a month. The average cost to Government of the maintenance of a leper at the Leper Asylum at Ratnagiri is Rs $8\frac{1}{4}$ per mensem, and the same amount is given to the Edalji Framji Albless' Leper Home at Trombay for each leper transferred to that Home from the ward for incurables attached to the Jamshedji Jijibhái Hospital. In these circumstances Government trust that the maintenance charges in the new Home will be reduced in time to Rs. $8\frac{1}{4}$ a head.

2. The Municipal Commissioner should be informed that this undertaking is to be regarded as revocable should that course seem necessary or advisable to Government, and as satisfying or absorbing any moral obligation supposed to rest on Government for the maintenance of a ward at the Jamshedji Jijibhái Hospital accessible to lepers and sufferers from infectious diseases.

J. DE C. ATKINS,
Acting Under Secretary to Government.

No. 12,398 of 1890-91.

Resolved: "That Government Resolution No. 3,567, General Department, dated 5th instant, on the subject of Government grant-in-aid towards the cost of the maintenance of a Home or Sanitarium for the vagrant and Homeless lepers, in Bombay be passed on to the Corporation.

Government
grant-in-aid
towards Leper
Home.

No. 5694.

Then came the question of increasing the Monthly Grant towards the Matunga Leper Asylum, with the following result:—

No. 312.

GENERAL DEPARTMENT.

BOMBAY CASTLE, 23rd January 1891.

Letter from the Municipal Commissioner for the City of Bombay, No. 22087, dated 9th January 1891, inquiring whether Government will consent to increase their contribution to the maintenance of the Leper Asylum at Matunga in the same proportion which they now pay, if the number of inmates is increased beyond 200; making remarks, and adding that whatever further contribution Government may make should be contingent on similar action on the part of the Municipal Corporation, Bombay.

RESOLUTION—The Municipal Commissioner for the City of Bombay should be informed that in the uncertainty that exists as to the report of the Leprosy Commission, Government does not feel able to make further engagements than it has already made; but that the contribution of this Government shall not be less than Rs. 1,000 a month, however much the Municipal Commissioner may be able to reduce the cost of maintenance per head.

J. DE C. ATKINS,

Acting Under Secretary to Government.

Proposed by E. B. Carroll, Esq., seconded by Colonel Merewether—

“That, as the Municipal Commissioner has succeeded in providing accommodation for an additional number of patients, and with the view to affording accommodation in the Matunga Leper Asylum for a larger number than 200 patients, and for the reasons stated in the Commissioner’s letter No. 24159, of this day’s date, the Corporation be recommended to increase their monthly contribution to the Asylum of Rs. 1,000, to the extent of Rs. 10 per head per mensem additional for each patient beyond the number of 200, and up to the number of 300. The cost to be met by a grant from surplus cash balance.”

On a division, there were 5 votes *for* and 2 votes *against* the motion, which was *carried*.

The Corporation thereupon passed the following Resolution on the motion of Dr. A. G. Viegas:—

“1. That sanction be given to an increase in the monthly contribution of Rs. 1,000 towards the maintenance of the Matunga Leper Asylum to the extent of Rs. 10 per head per mensem addi-

No. 10742.

No. 12296.

tional for each patient beyond the number of 200, and up to the number of 300.

"2. The cost to be met from surplus cash balance.

"3. That the Municipal Commissioner be requested to address Government again with a view to obtain a moiety of the additional amount now sanctioned by the Corporation." (23-2-91).

Report of the Committee of the Corporation, appointed to consider and report on the subject of the Establishment of the Sir Dinshaw M. Petit Leper Asylum at Matunga.

Matunga
Asylum.

The Committee appointed by the Resolution of the Corporation, No.

"That, with reference to Mr. Chief Secretary Mackenzie's letter No. 3372, dated 23rd September 1891, No. 8076. the following Committee be appointed to report thereon :—

Mr. P. M. MEHTA; Mr. E. B. CARROLL; the Hon'ble Mr. JAVERILAL U. YAJNIK; Mr. DINSHAW E. WACHA; Mr. COWASJEE HORMUSJEE; Mr. THOMAS BLANEY; Mr. BHALCHANDRA K. BHATAWADEKAR; Brigade-Surgeon S. O'B. BANKS.

"That Mr. Blaney be Chairman of the Committee."

8076, dated 26th October last, as per margin, beg to report that they concur in the opinion of the Government

Committee, that the Home should be built at Matunga near the present Leper Home, and that it should constitute an extension of it. The Committee are also of opinion, that a very large area of ground surrounding the new site should be secured in order to isolate the asylum as far as possible.

2. The Committee recommend that the Corporation should defer the decision of the question as to what proportion of the cost of equipment and maintenance of the hospital should be borne by them, as the Committee think it is very probable that, if the Corporation are treated liberally by Government in respect of their contribution of Police charges, they would feel themselves justified in offering to bear a far higher proportion of the cost than they otherwise would.

THOMAS BLANEY.
PHEROZESHAH M. MEHTA.
E. B. CARROLL.
JAVERILAL U. YAJNIK.
BHALCHANDRA KRISHNA.
DINSHA EDULJI WACHA.
COWASJEE HORMASJEE.
S. O'B. BANKS.

BOMBAY, 26th November 1891.

Proposed by Thomas Blaney Esq., seconded by the Hon. P. M. Mehta, C. I. E.

“That the report of the Committee be adopted and that the President be requested to address Government in terms thereof.” (26th October 1891.)

Carried.

Letter No. 10373 dated 18th December 1891 was addressed to Government by the President in terms of this Committee's Report.

No. 25652 dated 24th February 1893.

To The MUNICIPAL SECRETARY.

Sir,

I have the honour to report that I have been able to obtain a promise of a donation of Rs. 19,000 to the Homeless Leper Fund for the erection of a Hospital Ward, that is to say, a ward for lepers suffering from other diseases than leprosy on certain conditions, one of which is “that the building be taken charge of, maintained and kept in repair by the authorities above named” (Government and the Municipality) “or by those who have for the time being charge and maintenance of the Asylum.” The entire Asylum is now maintained jointly by Government and the Corporation, each contributing not exceeding Rs. 1,500 a month, according to the number of inmates. The condition mentioned above will not entail any extra charge as the Hospital Ward can be kept in repair, as the other wards are, out of the maintenance grant, and its erection will not increase the number of inmates. I have, therefore, the honour to ask whether I may intimate to the donor that the Corporation have no objection to this condition. The only point likely to raise objection which occurs to me is that at present the Corporation have entered into no objection to continue their present contribution indefinitely, while assent to this condition will entail a permanent obligation to the extent of Rs. 250 a month (half of 50 patients at Rs. 10 a head.) I trust, however that this will not be found to be of the nature of a fatal objection. A hospital ward is very badly wanted, as at present no means exist of isolating sick lepers who have to remain and be treated in the leper wards to the danger and discomfort of those around them. I am of course addressing Government also with a request for a similar guarantee to that asked for in this letter. As the offer of this money will lapse by about the middle of March, I have the honor to beg that I may be favoured with a very early answer. I have &c.,

H. A. ACWORTH,
Municipal Commissioner.

No. 811 of 13th March 1893

GENERAL DEPARTMENT.

To The MUNICIPAL COMMISSIONER.

Sir,

In reply to your letter No. 25651 of the 24th February 1893, on the subject of the donation promised to the Homeless Leper Fund for the erection of a Hospital Ward for lepers suffering from other diseases than leprosy, I am directed to inform you that Government have no objection to the condition mentioned therein, namely "that the building be taken charge of, maintained and kept in repair by the authorities aboved named" (Government and the Municipality,) "or by those who have for the time being charge and maintenance of the Asylum." I have &c.

G. W. VIDAL,

Acting Chief Secretary to Government.

Proposed by Pherozechah M. Mehta Esq., seconded by Karsondas Chabildas Esq.—

"That the donor of Rs. 19,000 towards the Matunga Leper Asylum be informed that the Corporation would be glad that that sum should be accepted, but without the condition attached to the offer, in view of the fact that no permanent arrangement has yet been made between Government and the Corporation regarding the maintenance of the Leper Asylum."

Carried.

The Standing Committee on 31st January 1894, by their Resolution No. 11478, asked the Municipal Commissioner to inform them as to whether the Leper Asylum is a Municipal Institution.

The Commissioner replied stating that it is partly a Municipal Institution being built on Municipal Ground and supported partly by Municipal Funds. At all events, it is so far, a Municipal Institution that all the accounts pass through his office and that the Chief Accountant and the Commissioner prefer to report contracts in the usual way.

No. 2263 of 4th June 1895.

MEMO.

As the Corporation have expressed their strong disapproval of the accounts of the Municipality and of the Leper Asylum Matunga being in any way mixed up, and as on the 22nd October last, the Corporation passed the accompanying letter (see Resolution No. 7986 dated 22nd October 1894); the undersigned

has the honor to submit for the consideration of the Acting Commissioner whether in future, such supplies as those referred to in the accompanying Cash Vouchers should not be obtained by the Medical Officer in charge of the Asylum in the Bazaar direct and not from the Municipal Contractors or Municipal Stores.

(Sd.) H. W. BARROW,
Municipal Secretary.

The Acting Commissioner approved of the suggestions of the Municipal Secretary. Orders were issued accordingly to the Medical Officer in charge to carefully attend to them in future.

GENERAL DEPARTMENT.
BOMBAY CASTLE, *8th May 1895.*

No. 1828.—The following Resolution of the Government of India in the Home Department, No. 2, Medical, 138—149, dated 23rd March 1895, was published for general information :—

Government
of India
despatch re:
garding
Leprosy.

RESOLUTION.

THE question whether it would not be possible for the State to take a more direct part in the prevention or treatment of leprosy in India has been for some years under the consideration of the Government of India. In the Resolution, dated the 26th September 1888, the Governor General in Council observed that so far as had been ascertained at the census of 1881 there were 1,31,618 lepers in British India, that these figures did not in all probability afford a true measure of the disease, and that about 1 per cent. only of the lepers actually known to exist came under organised relief in institutions maintained by charity or assisted by Government. It was stated that the great majority of lepers preferred to be the objects of local charity and appeared to disapprove of the small amount of restraint to which they were liable in institutions maintained for their treatment. The Governor General in Council was of opinion that the absolute segregation of the sexes and the confinement for life of all affected by leprosy, which His Excellency in Council was then assured was the only effectual measure for stamping out the disease, would not only be repugnant to public opinion but would be impracticable in India. After a careful consideration of the subject the Governor General in Council came to the conclusion that, for the time at all events, the State could not attempt more than the encouragement of the grant of medical and charitable relief to lepers in voluntary hospitals and Leper Asylums. His Excellency in Council expressed the opinion that in such institutions the necessity of strictly segregating the sexes should invariably be kept in view and desired that this condition should be enforced in the case of every institution for the relief of lepers receiving aid from public funds and that every effort should be

Number of
Lepers in
India.

Measures for
stamping out
the disease.

made to induce the supporters of institutions of the kind maintained by voluntary contributions to adopt a similar rule.

2. Subsequently, upon a further examination of the question, the Governor General in Council considered that some additional measures might be taken with the object of promoting the establishment of asylums or retreats for lepers and giving legislative sanction to the retention of lepers in such retreats. His Excellency in Council accordingly directed the preparation of a Bill providing for the detention of lepers at their own request in accordance with the voluntary system adopted in regard to habitual drunkards by the Statute 42 and 43 Vict., Cap. 19, and authorising Magistrates to arrest and commit to retreats persons proved to be lepers who might be found asking for alms or wandering about without any employment or visible means of subsistence. The Bill contained a provision requiring the segregation of the sexes at retreats and protecting a leper from being sent against his will to a retreat where attendance at any religious observance or at any instruction in religious subjects was obligatory upon the inmates. In inviting the views of the local authorities upon the provisions of the Bill on the 15th June 1889, the Government of India requested the Local Governments and Administrations to state whether, in the opinion of persons qualified to judge, leprosy was on the increase or not.

Cause and
character of
the disease.

3. The replies showed that very great uncertainty existed as to the cause and character of the disease of leprosy, and the opinions of those consulted differed very much upon these points. The opinion was expressed by many of the highest medical authorities consulted that the disease is not contagious except by inoculation, and that the part played by inoculation in determining its spread is very small. It then became a matter for the consideration of the Government of India whether it would not be desirable to introduce the Bill in an amended form, on the one hand limiting its application to persons suffering from the disease in an advanced and specially dangerous stage, and on the other hand extending the power of arrest and compulsory detention so as to cover all such dangerous lepers who might after warning persist in coming out and mixing with the public. The conclusion at which the Government of India then arrived was that there was no safe basis even for an enactment of this restricted description. At the time the English National Leprosy Fund, formed under the presidency of His Royal Highness the Prince of Wales for the purpose of perpetuating the memory of Father Damien who died of leprosy contracted during his work among the lepers of Hawaii, contemplated the appointment of a Leprosy Commission to visit India, and the Government of India, after communicating their views to Her Majesty's Secretary of State for India, decided to await the recommendations of the Commission.

4. The Commission, which consisted of five gentlemen of the

* Beaven N. Rake, Esq., M.D., L.R.C.P.,
M.R.C.S.
Geo. A. Buckmaster, Esq., M.D.
A. A. Kanthack, Esq., M.D., M.R.C.P.,
F.R.C.S.

† Surgeon-Major A. Barclay, M.B.
Surgeon-Major S. J. Thompson, D.P.H.

medical profession, three* selected in England by the National Leprosy Fund in conjunction with the Councils of the Royal College of Physicians and the Royal College of Surgeons, London, and

two†—officers of the Indian Medical Service deputed by the Government of India, commenced its investigations in the winter of 1890-91. The Commissioners unanimously reported their opinion that:—(1) leprosy is a disease *sui generis*; it is not a form of syphilis or tuberculosis, but has striking ætiological analogies with the later; (2) leprosy is not diffused by hereditary transmission, and for this reason, as well as because of the large extent of sterility among lepers, the disease has a natural tendency to die out; (3) though in a scientific classification of diseases leprosy must be regarded as contagious and also inoculable, yet the extent to which it is propagated by these means is exceedingly small; (4) leprosy is not directly originated by the use of any particular article of food, not by any climatic or telluric conditions, nor by insanitary surroundings; neither does it peculiarly affect any race or caste; (5) leprosy is indirectly influenced by insanitary surroundings, such as poverty, bad food, or deficient drainage or ventilation, for these by causing a predisposition increase the susceptibility of the individual to the disease; and (6) leprosy in the great majority of cases originates *de novo*, that is, from a sequence or concurrence of causes and conditions, dealt with in the report, which are related to each other in ways at present imperfectly known.

5. The Commissioners observed that 'the presence of a leper in a healthy community is a source of danger no greater than the presence of an individual suffering from tuberculosis. Both diseases are contagious in an equal and minimal degree. The amount of ulceration which exists in both diseases is to some extent a measure of the danger of contagion.' They held that their conclusions as to the nature of the disease did not justify any recommendation for absolute segregation, and for the same reasons they found it impossible to advise compulsory partial isolation. They advocated the adoption of a voluntary isolation as extensive as local circumstances would allow, and suggested that, if marriages among lepers were permitted, this plan might be more easily carried out. They stated that they would in no case suggest an Imperial Act, especially directed against lepers as such, for the reason that they considered lepers to be far less dangerous to a community than insane or syphilitic people.

6. The Commissioners made the following recommendations for the regulation of leprosy and lepers in India, which they considered could be effected by means of Municipal bye-laws:—

Appointmen t
of a Leprosy
Commission.

Opinion of
the Leprosy
Commission.

(a) that the sale of articles of food and drink by lepers should be prohibited and that they should be prevented from practising prostitution, and from following such occupations, as those of barber and washerman, which concern the food, drink, and clothing of the people generally, quite apart from the dread of a possible infection; (b) that the best policy in dealing with the concentration of lepers in towns and cities is to discourage it, and that to this end the Municipal authorities should be empowered to pass bye-laws preventing vagrants suffering from leprosy from begging in or frequenting places of public resort or using public conveyances; (c) that asylums should be built near towns where they do not already exist, and that the authorities should have the power of ordering lepers infringing the Municipal regulations either to return to their homes or to enter an asylum; and (d) that competent medical authority should always be consulted before action is taken under such bye-laws.

Report of
the Commission
considered
by a
Special Com-
mittee.

7. The report of the Commission was considered by a Special Committee consisting of two members ‡ nominated by the Executive Committee of the National Leprosy Fund, § nominated by the Royal College of Physicians, and two members ¶ nominated by the Royal College of Surgeons. It was also considered at the same time by the members || of the Executive Committee of the National Leprosy Fund. As the result of this consideration a memorandum was prepared by the members of these two Committees accepting the conclusions of the Commissioners except :—(3) that the extent to which leprosy
- ‡ The Honourable Geo. N. Curzon, M. P., then Under Secretary of State for India (Chairman).
Edward Clifford, Esq.
§ Sir Dyce Duckworth, M. D., LL. D.
G. A. Heron, Esq., M. D., F. R. C. P.
¶ Jonathan Hutchinson, Esq., LL. D., B. R. S. N. C. Macnamara, Esq., F. R. C. S.
|| Baron Ferdinand de Rothschild, M. P. (Chairman).
The Bishop of London.
The late Sir Andrew Clark, Bart., F.R.S., President, Royal College of Physicians.
Sir James Paget, Bart., F.R.S.
Sir Joseph Fayrer, K.C.S.I., M.D.
Sir W. Guyer Hunter, K.C.M.G., M.D., M.P.
Sir Algernon Brothwick, Bart., M.P. (Honorary Treasurer).
Sir Edward Lawson, Bart. (Honorary Treasurer).
Sir Somers Vine, F.R.G.S., F.S.S. (Honorary Secretary).

Conclusions
of the Special
Committee.

is propagated by contagion and inoculation is exceedingly small; and (6) that leprosy in the majority of cases originates *de novo*, that is, from a sequence or concurrence of causes and conditions, dealt with in the report, and which are related to each other in ways at present imperfectly known. These Committees declared themselves unable to accept the view that segregation in any case of leprosy in India is either impracticable or undesirable, and stated that they would be sorry if the Government of India were encouraged by the report of the Commissioners to refrain from taking the necessary steps in the direction of such segregation of lepers as might be found possible. They stated that

their opinions on segregation were in accord with those of Dr. Vandyke Carter, *viz.*, that it should be effected—

- (i) by erecting plain asylums at certain centres, each of which would be a refuge common to several districts, and a place of detention, under due management and supervision ;
- (ii) by founding leper Colonies, or village communities, mainly of the affected, who, while allowed more liberty of movement, should yet be prevented from mingling with the peasantry around ;
- (iii) by requiring the strict isolation in suitable separate lodgment of leprosy subjects retained in their homes at express wish of friends ; and
- (iv) by giving legislative authority to take up the vagrant sick, to remove the sorely diseased who are insufficiently guarded at home, and at times to enforce continued isolation of the infected until medical sanction of the liberty be granted.

While reserving these opinions the Committees gave a general approval to the recommendations of the Commissioners enumerated above in paragraph 6, though they did not concur in the opinion that Municipalities would be necessarily or universally the best means of effecting the object of providing for the regulation of leprosy and leprosy in India. They wished to go much further than the Commissioners in controlling the action of lepers, and urged that the Government of India should take the necessary steps in the direction of such segregation of lepers as might be found possible. The late Sir Andrew Clerk, Sir W. Guyer Hunter, Sir James Paget, Sir Joseph Fayrer and Dr. Jonathan Hutchinson dissented from the opinion expressed in the body of the report of the Special Committee on the subject of the contagion of leprosy, believing that the evidence of the spread of leprosy by contagion is not sufficient to justify the compulsory segregation of lepers, and that there is no adequate reason for prohibiting the marriage of the leprosy. Sir Dyce Duckworth also expressed a somewhat similar opinion.

The Surgeon-General with the Government of India has also stated his concurrence with the finding of the Commissioners upon the issue whether leprosy is contagious or not, and this view has found favour generally among the authorities in this country. The Governor General in Council, while regarding with every respect the opinion of the eminent gentlemen upon the Special Committee and the Executive Committee of the National Leprosy Fund who dissented from the finding of the Leprosy Commissioners regarding the contagious character of the disease, is constrained to accept the conclusion of the Commissioners upon this matter, fortified as it is by the views of the distinguished medical authorities just cited, and by the general opinion of those in India who are qualified to pass judg-

Difference of
opinion on the
Special Com-
mittees
report.

Segregation
of lepers.

ment on it. His Excellency in Council accordingly feels assured that the extent to which the disease is propagated in India by contagion is small, and, holding this opinion, is unable to approve of the compulsory segregation, either absolute or partial, of lepers except under the special circumstances which are detailed *infra* in paragraph 10.

Prohibition
of lepers in
engaging in
trade.

8. The Local Governments and administrations were requested to offer their opinions for giving practical effect to the recommendations of the Commissioners. There is complete unanimity of opinion in favour of the first recommendation that lepers should be prohibited from engaging in certain trades. This recommendation cannot indeed be directly justified on the conclusion of the Commissioners regarding the question of the contagiousness of leprosy, but it appears to the Government of India that, as the Lieutenant-Governor of the Punjab observes, 'it is amply justified on the grounds that there is a certain danger in allowing lepers with running sores to engage in those trades, and the people of this country, and indeed, it may be said, of any other country, would be struck with dismay if they discovered that the articles they used or consumed had been handled by such lepers.' There is, in fact, the Government of India are advised, danger of septic poisoning from any such running sore or ulcer.

The question arises whether the prohibition in respect of the trades in question should be confined to Municipalities or made of general application. The majority of the Local Governments and Administrations would, for the present at least, proscribe lepers from engaging in trades only in Municipal areas, upon the broad grounds that the enforcement of the prohibition would be impracticable in agricultural villages, and that the members of village communities, who are fully cognizant of the most trifling details connected with the every day life of their fellow residents in a village, are well able to protect themselves. The object is to protect the public from dealing unwittingly with leper tradesmen, and the Governor General in Council thinks that this can be adequately secured if the prohibition is confined to Municipalities and to the larger fairs and religious and other gatherings which are held outside the limits of towns. His Excellency in Council has, therefore, decided that, for the present at all events, the prohibition should not apply except to lepers in and near Municipalities and at the larger fairs and similar gatherings. As the Government of India abstain strictly from regulating prostitution, no bye-law or Act dealing with the prohibition against lepers following certain trades or callings should extend to that of prostitution by leper women.

In the opinion of the Governor General in Council the question of amending the Municipal Acts in the Provinces where they are at present deficient in this respect should now be taken into consideration. In connection with this point it appears to

His Excellency in Council that section 55 of Act XV of 1883 in the North-Western Provinces and Oudh cannot, as urged by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, be held to refer to this matter, and that section 85 of Act XVIII of 1889 in the Central Provinces, which the Chief Commissioner of the Central Provinces considers would enable Municipal Commissioners to prohibit, as a public nuisance, lepers from publicly exposing their sores or from engaging in trade, does not provide for it with sufficient precision.

9. The second recommendation of the Commissioners was directed against the prevalent custom of mendicant lepers to leave their homes and crowd into the large centres of population. The Commissioners held that vagrant and indigent lepers scattered about the country are not a source of serious danger, and their proposal that Municipal authorities should be empowered by bye-laws to prevent vagrants afflicted with leprosy from begging in or frequenting places of public resort or using public conveyances in towns and cities was dictated by the expectation that the effect of such bye-laws in large towns would be an emigration into the surrounding country, and a furtherance of the scheme for establishing experimental leper colonies or farms in rural districts. With the exception of the Government of Madras and the Chief Commissioner of Assam, the Local Governments and Administrations are generally in favour of sending to, and retaining in, asylums vagrant pauper lepers who congregate in towns. It has been forcibly urged to the Government of India that this question, as well as that of prohibiting lepers from engaging in certain trades, has an administrative as well as a medical aspect, and that action such as the Commissioners proposed is justified by the loathsomeness of the disease, by the circumstance that those suffering from it very commonly obtrude their sores upon the public with a view to forcing people to give them money, and by the fact that people in India are commonly struck with horror at the approach of a leper, and are apt to yield to his importunity in order to induce him to move on. In deference to the sentiments of the community generally, the Government of India agree that steps should be taken to prevent mendicant lepers from obtruding their deformities on the public gaze in towns and cities. The experience gained in Bombay, since the establishment of the Leper Asylum at Matunga, shows that regulations having this object may, if intelligently and energetically carried out, be expected to be productive of great benefit to the leper Community as well as to the general public.

Prevention
of mendicant
lepers from
obtruding
their deformi-
ties on the
public gaze.

The Commissioners recommended that the authorities in towns should be empowered to order a leper infringing the regulations either to return to his home or to enter an asylum. This recommendation is generally accepted except by the Govern-

Removal of
lepers in-
fringing the
regulations.

ment of Madras which would limit the power of enforcing obedience to the bye-laws to the actual expulsion of lepers from towns and cities, and by the Chief Commissioner of Assam on the ground that he is not prepared to recommend compulsory detention in asylums. The view which approves itself to the Government of India and to the Majority of the Local Governments and Administrations is that vagrant lepers in the Municipalities should be dealt with in much the same way as vagrant lunatics are dealt with under the provisions of Act XXXVI of 1858, *viz.*, that such persons should be brought before a Medical officer and a Magistrate and sent to an asylum by an order of the latter if found to be suffering from the disease and without relatives who can properly care for and treat them. The Governor General in Council considers that, for the present at all events, it will be sufficient to take power to deal with vagrant lepers in this manner in Municipalities and their immediate neighbourhood.

Establish-
ment of
additional
asylums.

10. The Commissioners recommended that Leper Asylums should be built near towns where they do not already exist, and the memorandum of the Surgeon-General with the Government of India, circulated with Home Department letter of the 15th September 1893, contained detailed suggestions for the establishment and location of additional asylums throughout the country. The Surgeon-General was of opinion that requirements would be met if on an average one asylum was provided to each revenue division. A suggestion of the Commissioners, intended to be ancillary in the rural districts to the establishment of asylums in the immediate neighbourhood of towns, was that leper farms in rural tracts where lepers with their wives and families could cultivate the soil might be productive of practical good. They considered that comparatively few children would be born, and proposed that they should, if possible be removed to orphanages from which they would be discharged as soon as they could support themselves.

This part of the subject appears to the Government of India to need further consideration by the Local Governments and Administrations. The Governor General in Council considers that in each division or some convenient area an asylum, or an asylum and a farm, should be maintained so as to accommodate the lepers who may be found vagrant in the Municipalities in the division or area, and His Excellency in Council is of opinion that the additional expense which may be necessary for the purpose should be met jointly by the Municipalities and District and Local Boards of the division or area. The Government of India will be glad if the Local Governments and Administrations will take the matter into their consideration at an early date, in order to determine to what extent additional accommodation will be required, how the cost of providing and maintaining such accommodation should be divided

among the local bodies, and whether any amendment of the law relating to Municipalities and Districts and Local Boards is necessary for the establishment of such asylums and farms outside the limits of Municipalities and for the proposed division of the cost. The Government of India are inclined to think that it may not be necessary to legislate, as was proposed in clause 4 of the Bill circulated in 1889, for the voluntary admission of lepers in asylums, but they would have no objection to the adoption of such a provision in any Province in which the Local Government or Administration thinks it would be useful.

11. The fourth recommendation of the Commissioners was that competent medical authority should always be consulted before action in regard to lepers is taken. With this view the Government of India entirely agree. But the Commissioners did not suggest a definition of the terms "leper" and "leprosy" which could be adopted for the purpose of the provisions to be made in the different law and bye-laws. In the opinion of the Government of India the terms should for this purpose be defined, as in the Bill at present before the Legislative Council of the Lieutenant-Governor of Bengal, which is alluded to in the preamble of this Resolution, so as only to include cases in which ulceration has actually commenced. The Governor General in Council considers that that public interests do not require that action should be taken against persons attacked with the disease who have not reached that stage. In any case in which it is proposed to enforce the bye-laws against a person who appears to be affected with ulcerous sores, a preliminary to such action will be that he should be examined by a competent medical authority.

12. The enquiry mentioned in para 2 of this Resolution which was instituted into the question whether the disease of leprosy is on the increase or not in this country was taken up by the Leprosy Commissioners. At the time when the report was issued the returns for the census of 1891 had not been fully revised, but they were sufficiently complete to enable the Commissioners to make an elaborate examination of the statistics given in the last three censuses taken in India regarding the distribution of lepers in the country. The conclusions at which they arrived was that the alarm about the increase of leprosy in British India is altogether groundless, that the figures available, though unfortunately consisting of only three sets, pointed strongly to a decrease in the number of these unfortunate people, and in any case to the disease not being on the increase, that the number of lepers had been greatly overstated, 1,10,000 being perhaps nearest the truth, and that leprosy could therefore not be regarded in the light of a general danger. The final statistics of the Census Commissioner for India showed the number of persons described as lepers at the Census of 1891 to be 126,361,

Prevalence
of leprosy in
India.

of whom 31,069 were females. Mr. Baines thought it possible that a good deal of the decrease in the numbers of lepers returned in 1891, from tracts in which they were formerly remarkably high, might be nominal and due to greater accuracy of diagnosis and the Governor General in Council is inclined to agree with him that it is impossible to say for certain whether the disease of Leprosy in this country is on the whole stationary or not. His Excellency in Council, however, sees no reason to dissent from the general conclusion of the Commissioners that leprosy does not prevail in India to such an extent as to constitute a general or universal danger and that the means by which we must look forward to secure its diminution are improved sanitation and better dietetic conditions.

13. The legislation which is required to carry out the decision of the Government of India in paras 8, 9 and 10 of this Resolution will be effected in Local Legislative Councils in Provinces where they exist and for other provinces by the Governor General in Council. The Bill cited in the preamble has already been introduced in the Council of the Lieutenant-Governor of Bengal, and the Governments of Madras, Bombay and the North West Provinces and Oudh should now proceed to legislate either by means of a separate Bill or by such amendment of the Municipal Law as is necessary to bring it into accord with the principles which have been accepted by the Government of India. The Governor-General in Council will be glad to receive in due course from the Lieutenant-Governor of the Punjab and the Local Administrations proposals for effecting the changes in the Law which will be required in the Provinces administered by them.

14. The Governor General in Council cannot conclude this resolution without placing on record his appreciation of the able and exhaustive manner in which the Leprosy Commissioners conducted their enquiry. Two of them, the Governor General in Council regrets, passed away before His Excellency in Council had had an opportunity, of publicly acknowledging their labours. Surgeon-Major Barclay died at Simla of typhoid fever while the Commissioners were still engaged in their investigations, and Dr. Beaven Rake at Trinidad in August 1894. Finally the Government of India desire to express on behalf of the Empire their thanks to the Committee of the National Leprosy Fund for devoting a portion of the subscriptions raised in memory of the late Father Damien to the investigation of the disease of leprosy throughout India.

Order—Ordered that this Resolution be published in the Gazette of India and that a copy be forwarded to all Local Governments and Administrations and to the Foreign Departments for information.—

J. P. HEWETT,

Officiating Secretary to the Government of India.

Lepers: Removal of—from the Ward for Incurables attached to the Jamshedji Jijibhai Hospital.

No. 3462.

GENERAL DEPARTMENT.

Bombay Castle, 29th August 1890.

Joint letter from Bâi Navajbâi Rastamji, Meherbâi Kharsedji and Kharshedbâi Shâpurji, dated 16th August 1890 :—

“We venture to take the liberty of asking you to lay before His Excellency the Governor in Council, the following representation which we are induced to make in consequence of learning from the public papers, that Government has ordered the Leper Ward, founded by our late father Mr. Rastamji Jamshedji Jijibhai in connection with the Sir Jamshedji Jijibhai Hospital, to be closed.

“We need not remind Government that our late father made it a condition of the trust under which he endowed the Ward, that it should be considered a part of the Sir Jamshedji Hospital and be maintained and kept in repair by Government as a portion of that Institution. We are in a position to say that it was one of the dearest wishes of our father to found an endowment, in which his own name should be permanently associated with that of his revered father, the first Sir Jamshedji Jijibhai, Bart., and he therefore attached great importance to the conditions under which he offered the money to Government. The formal acceptance of the conditions by Government was a source of the greatest gratification to him, as it was an article of faith with him, that the trusteeship of Government guaranteed the permanance and inviolability of the trust thus founded.

“We cannot believe that the Leper Ward founded under such circumstances would be allowed by Government to be closed, and the trust abolished on any plea whatever, and we do not think that they would allow it to be crowded out by new additions of more recent date.

“We shall feel greatly obliged if Government will be good enough to furnish us with authentic information in relation to the endowment, so that the anxiety felt by us in consequence of the public reports about its abolition may be set at rest.”

RESOLUTION.—The three ladies who have addressed Government should be informed that the Governor in Council without admitting any right on their part to call Government to account is glad to be able to assure them that at present the terms as to lepers mentioned by Mr. Rastamji Jamshedji Jijibhai are fulfilled and more than fulfilled by Government. In deference to public opinion Government consider that lepers will be more suitably provided for in homes reserved for

Admission of
Lepers into
the J. J. Hos-
pital.

persons suffering from leprosy and in lieu of admitting 20 lepers into the Jamshedji Jijibhái Hospital are contributing towards the support of the Albless Leper Asylum and have engaged to contribute a sum calculated to maintain at least a hundred lepers in the new Leper Home shortly to be opened in or near Bombay.

JOHN NUGENT,
Chief Secretary to Government.

ASSESSMENT.

In 1796, Sir Francis Gordon was Collector of taxes. On 16th April 1796, the Justices of Oyer and Terminer ordered to be paid to him the sum of Rs. 1,000 as compensation for his extraordinary trouble in the first valuation of houses together with Rs. 795 being the amount of his allowance as Collector from 1st August 1794 to 30th November 1795 *i. e.*, at the rate of Rs. 53 per mensem.

In 1794 the assessment charges paid to Parbus (Hindu clerks) for taking an account of the Annual Valuation of houses, ground, and buildings was Rs. 74-1-0 per mensem.

The Assessment Department Budget for 1900-1901 shows an expenditure of Rs. 2,78,691 per annum.

On the 3rd November 1833, it was agreed that instead of giving a fixed pay to the Assessor, he should be allowed a commission in the same way as the Collector of the Assessment. The object of giving a percentage to the Assessor was that he would devote more attention to the Assessment of Houses than perhaps he would do if his pay was a fixed one.

The Chairman of the Bench remarked that it must be perfectly immaterial to the Assessor, whether the sum total of the Assessment be one lac or only half a lac of Rupees annually whereas a percentage would be an obvious inducement to him to see that the whole of what was due, was at all times and in every instance imposed, not with the right of appeal could there be any danger of his running into the opposite extreme of over assessment.

It was subsequently decided that the Superintendent of Police should realise the Assessment on Houses and grounds to which the Bench gave their assent. The outstandings being very large, the Bench had no alternative but to address Government on the subject and pointed out that the outstandings were Rs. 2,63,940.

In the words of the letter they stated :—"The duty of realising the Assessment on Houses has been entrusted to the Superintendent of Police under the arrangement to

Valuation of
Houses in
1794.

Assessment
charges in
1794.

Assessment
charges for
1900.

The Staff.

which the Bench gave its assent. The same officer is by appointment by Government, Collector of the wheel Tax ; and the shop and stall Tax is also collected by a Government officer, the Collector of Bombay under Act XI of 1845. Being able therefore to exercise but little control over the Collector of Assessment of Houses and none over the collector of wheel Tax and stall and shop tax the Bench has no alternative but to request that Government may take such measures as it may consider best for expediting the collection of the large sum due to the Municipal Fund and preventing the accumulation of balances in future."

The Assessment Department is one of the most important in the Municipality. Upon it a considerable amount of revenue depends. In 1857 the following was the establishment :—

1 Assessor	...	Rs. 500
1 Head Inspector	...	322
1 2nd Do.	...	136
2 do.	at Rs. 96-192	
1 Clerk	...	25
1 Painter	...	15
2 Do. at Rs. 10	...	20
1 Sepoy	...	9 8 0

Total Rs. 1,219 8 0

The House Assessment in that year amounted to Rs. 2,29,319. The gross assessment for the year 1900-01 is Rs. 31,375,106.

In 1865, the Town was divided into 10 Wards, the following Statement shows the number of assessable houses, population, and area in acres in each ward for that year :—

Assessable
properties in
the wards of
Bombay in
1865.

No.	Name of Ward.	Population.	Area in Acres.	No. of houses and assessable properties.
1	Colaba	19,161	238.36	518
2	Fort	49,582	698.66	1,221
3	Mandvi	1,57,996	210.96	3,239
4	Umerkhandi	1,23,279	153.55	2,062
5	Bhooleshwar	1,44,606	235.90	3,441
6	Cammattipura	1,28,214	747.78	2,573
7	Girgaum	56,866	301.90	1,938
8	Malabor hill	19,238	1,104.33	546
9	Mazagon	31,246	530.64	866
10	Parel & Mahim	53,792	7,696.69	5,249
Total		7,83,980	11,918.77	21,653

In this year there was one Assessor of the House rate, another Assessor of the Wheel and House Tax and another Assessor of the Water Rates.

Assessor and
Collector of
taxes.

The Collector of Municipal taxes was also Assessor of water Rates.

The Chief Engineer Vebar Water Works was also Assessor of Water Rates.

The water rates in most cases were calculated on the House Assessment. In the Wheel and House Tax Assessments there were then three Inspectors. One who looked after European inhabitants, a second who looked after Native gentlemen and a third who assessed Hack Buggies Livery Stables &c.

This system was subsequently condemned by a Committee of which Colonel Hatch was President and one establishment was organised for the Assessment and collection of all rates and taxes within each Ward. Each Ward had a Superintendent who furnished security to the extent of Rs. 10,000.

At present (1901) there are 7 Wards in the City *i. e.* A to G; each having a Superintendent (in some cases a Deputy also) an Assistant Superintendent and a number of Ward clerks. There are 3 Assistant Assessors and an Assessor and Collector.

Assessment upon the Houses, Buildings, Hay and Woodstacks from the year 1821 to 1854.

Year.	Rs.	Year.	Rs.
1821... ..	56,830	1838	95,577
1822... ..	73,331	1839... ..	98,044
1823... ..	74,251	1840... ..	1,00,356
1824... ..	73,123	1841... ..	1,01,547
1825... ..	72,331	1842... ..	1,09,608
1826... ..	74,120	1843... ..	1,14,558
1827... ..	77,848	1845... ..	1,75,000
1828... ..	80,342	1846... ..	1,43,320
1829... ..	81,283	1847... ..	1,58,444
1830... ..	83,484	1848... ..	1,54,487
1831... ..	84,782	1849... ..	1,66,504
1832... ..	85,789	1850... ..	1,81,760
1833... ..	86,636	1851... ..	1,84,493
1834... ..	90,045	1852... ..	1,93,947
1835... ..	91,197	1853... ..	1,97,549
1836... ..	92,779	1854... ..	1,97,727
1837... ..	93,208		

Rateable
value of pro-
perty in Bom-
bay from 1859.

The following table shows the number of properties assessed and their Rateable Value from the year 1856 :—

Year.					No. of properties Assessed.	Gross value.
1856	...	...	...	...	16,328	89,89,425
1857	...	...	...	...	16,567	45,86,395
1858	...	...	...	...	16,648	46,65,420
1859	...	...	...	...	16,741	50,21,400
1860	...	...	...	...	16,737	62,23,780
1861	...	...	...	...	16,902	63,49,055
1862	...	...	...	...	17,056	66,46,490
1863	...	...	...	...	17,188	71,59,755
1864	...	...	...	...	17,924	1,15,81,180
1865	...	...	...	...	17,959	1,20,14,655
1866	..	..	..	...	21,160	1,48,94,893
1867	..	..	..	...	22,839	1,63,09,535
1868	..	..	..	...	23,010	1,47,49,075
1869	..	...	...	...	20,853	1,39,41,260
1870	...	...	..	...	21,654	1,36,20,885
1871	..	..	..	...	21,089	1,34,26,845
1872	..	...	...	...	22,020	1,29,33,510
1873	...	...	...	...	21,055	1,26,71,816
1874	...	...	...	...	21,208	1,19,65,390
1875	...	...	...	...	22,445	1,15,55,066
1876	...	...	...	...	22,458	1,12,75,710
1877	...	...	...	...	22,780	1,14,77,690
1878	...	...	...	...	23,247	1,15,31,118
1879	...	...	...	...	23,663	1,14,93,417
1880	...	...	...	...	25,347	1,17,82,525
1881	...	...	...	...	25,605	1,17,44,530
1882-83	...	...	...	...	25,867	1,25,80,263
1883-84	...	...	...	...	29,867	1,45,64,507
1884-85	...	...	...	...	36,093	1,56,45,176
1885-86	...	...	...	...	47,802	2,00,25,223
1886-87	...	...	...	...	48,470	2,16,27,230
1887-88	...	...	...	...	49,313	2,24,46,222
1888-89	...	...	...	...	49,884	2,39,51,043
1889-90	...	...	...	...	50,425	2,68,90,888
1890-91	...	...	...	...	50,873	2,82,27,855
1891-92	...	...	...	...	51,135	2,85,80,023
1892-93	...	...	...	...	51,344	2,90,74,339
1893-94	...	...	...	...	51,673	2,69,79,728
1894-95	...	...	...	...	52,148	2,72,98,360
1895-96	...	...	...	...	52,499	2,81,55,935
1896-97	...	...	...	...	52,959	2,87,03,341
1897-98	...	...	...	...	53,163	2,94,82,805
1898-99	...	...	...	...	53,328	2,98,53,636

Properties in Bombay in 1868:—

Sections.	Area of Section in acres.	No. of families.	No. of persons.	Houses.
Market	84·32	5,793	75,402	1,080
Mandvi	78·49	6,302	41,152	851
Chakla	48·15	6,622	41,442	934
Oomerkhary	85·69	9,661	63,020	1,185
Dongri	67·86	6,796	60,259	721
Dhobi Talao	85·67	7,111	71,795	1,228
Funnaswady	78·37	3,411	22,529	547
Bhuleshwar	71·86	7,649	50,282	1,069
Khara Talao	41·05	4,411	23,454	580
Koomburwarra	43·51	4,466	23,085	655
Girgam	97·82	2,739	21,505	737
Khetwady	119·17	3,314	29,177	789
Chowpaty	84·91	1,067	6,184	441
Mazagon... ..	267·48	2,749	21,784	735
Kamattipura	663·22	10,599	81,675	3,571
Total ...	1917·57	82,690	6,32,745	15,123

Details of Assessments:—

Details.	1883-84.	1888-89.	1899-00.
Properties on Assessment Book ..	29,867	49,673	53,502
Gross Annual Valuation.....Rs.	1,65,08,950	2,43,14,166	3,05,17,091
Number of Bills issued.....	68,033	78,780	94,195
Amount of Bills issued.....	20,88,209	29,87,957	57,50,454
Amount to be collected.....	24,37,752	32,83,043	59,95,585
Amount actually collected under all heads.....	20,49,312	31,16,917	58,14,024
Outstanding Balance.....	3,88,439	1,66,126	1,81,561
Number of cases reported in the Tabulated Ward Reports.....	4,518	4,361	2,750
Number of Amendments made through Form 11 B.....	2,682	3,538	3,652
Complaints against Assessments..	1,392	3,006	2,843
Notices to Complainants	1,392	3,016	3,104
Special Notices issued	3,682	3,733	2,663
Notices of Demand	4,991	9,911	22,018
Warrants issued	1,446	2,056	2,517
3th Remission Claims	1,178	1,171	15,517
Refund Claims	1,393	1,849	2,653
Wheel Tax Schedules issued.....	10,103	10,176	15,486
Inward Number of letters received.	15,174	28,703	72,285
Outward Number of letters des- patched	17,317	26,974	61,842
Percentage of cost of Assessment, Collection and Refunds (includ- ing the salary of the Special Assistant to the Commissioner) on the amount to be collected..	3·3	On Establishment for 1889-90, 3·1 On proposed Establishment, 3·6	2·19

Government
properties.

In 1866, the Valuation of Government buildings and the number of them in each section were as under:—

Wards.	Total No. of Government Buildings.	Total Annual value.
		Rs.
Mahim and Parel	7	28,200
Bhoolleshwar .....	...	.....
Mandvee	1	1,20,000
Camattipura	3	7,584
Umerkhadi	2	12,720
Girgaum	1	360
Fort	55	8,09,450
Mazagon	8	10,365
Colaba	84	91,385
malabar hill	3	12,750
Total,	164	10,92,814

Government
grant in 1866.

The Government paid a lump sum of Rs. 13,000 per Annum as house rate only. The amount payable by Government in 1900 is Rs. 1,58,112 annually.

Proposed ex-
emption of
Government
Buildings
from Muni-
cipal Rating.

The Corporation in 1880 appointed a Committee to draft a Memorial to the Government of India pointing out that they have seen with much alarm the introduction into Council a Bill No. 8 of 1880 for the exemption of Government property of every kind from Municipal taxation. The Committee submitted their report on the 26th June 1880 (Page 65 Record for 1880) wherein they pointed out that the introduction of such a measure would in the first place have the effect of imposing an unequal burden upon Indian Municipalities and secondly affect most disastrously the financial condition of the Municipality of Bombay.

The Memorial which is a lengthy one was adopted on the motion of Rao Saheb V. N. Mandlik seconded by Dr. Thomas Blaney and forwarded to the Viceroy.

In Act III of 1888 it is provided that the sum to be paid annually by the Secretary of State for India in Council shall be eight tenths of the amount which would be payable by an ordinary owner of buildings or lands in the City, on account of the General Tax, on a rateable value to be fixed by a person to be appointed from time to time by Government with the concurrence of the Corporation—(Sec. 144.)

Formerly the system of keeping accounts was as follows :—

The net valuation for each Ward was communicated to the Controller of Municipal Accounts, who thereupon debited the Superintendent of that Ward with the full house, police and lighting rates leviable on the valuation. The Superintendent cleared off the debits by daily forwarding to the Controller intimations of recoveries for each rate. In the case of remissions for vacancies, or items found irrecoverable, the proceedings were filed in writing. At the close of the inquiry the Commissioner signed a certificate to the effect that the Superintendent of the Ward was entitled to a credit of so much on account of a particular rate. This certificate went to the Controller, who credited the Superintendent accordingly, counterfoils remaining with the Superintendent.

System of
accounts.

Refunds were similarly arranged, the only difference was that the person entitled to the refund got a certificate, which he presented like a cheque, to the Controller. Monthly detailed returns of recoveries &c., were submitted by the Superintendents, and after being tallied with the Controller's books, were forwarded by that officer to the Commissioner.

In the early part of the 19th Century, all collections on behalf of the Municipality were made by the Government Collector of Revenue and the Superintendent of Police; the produce of certain items of taxation was set apart in the Government Treasury for Municipal purposes, and disbursements from it were made by the Court of Petty Sessions. This fund was at various times designated as the "Police Fund," "County Fund," and "Assessment Fund" and latterly the "Municipal Fund."

Collection of
Revenue.

By Act XI of 1848 the Municipal organisation was changed, and "the Board of Conservancy," which was appointed under the same Act, was placed in charge of this Fund, with the solitary exception of a compulsory payment of a fixed sum annually towards the maintenance of the Police Force, this Board had the absolute control over expenditure from it. Among other powers with which the Board of Conservancy was vested, was that of appointing all subordinate Municipal officers, and among them was the Collector of Municipal Taxes. For some time the

Vehar Works
handed to
Municipality.

collections in the House rates, and those in the House and Wheel Tax Departments were made by separate establishments; but in 1850, the collection of both kinds of tax was confided to one. When the Vehar Water Establishment was handed by Government to the Municipality in 1863, the duty of collecting the water rates devolved upon the Collector, but the Assessment was at first confided to the House Assessor, and afterwards to the Chief President Engineer of the Water Works Department.

The collection of all the above different kind of taxes were usually in arrears and the chief reason assigned for these arrears was that there was great delay in forwarding the Assessments of the House and Water Rates, (the latter being in a great measure dependant upon the former) to the Collector's Office. The result was that sundry sums of money had occasionally to be written off as irrecoverable.

In 1865, the plan adopted in obtaining information whereon to base the Assessments was to divide the duties into various branches. One Inspector looked after those relating to the European inhabitants, a second to those of the Native Gentlemen, a third to the Hack Buggies, Livery Stables &c. and so on. The result of this system was that each Inspector had to hunt about over the whole Island to discover those people whom it was his particular duty to report as liable to Assessment. He left a return to be filled in at such houses as he thought fit, and on the return being sent to the office filled in, the Inspector was expected to take it to the house again to verify it by ocular inspection. On verification, or otherwise, he gave it into the Collector's Office, where the rate payable was entered upon it, and it was afterwards handed over to a "Receiver" whose duty it was to collect the money, and who was entitled to a small remuneration for his trouble.

The money returned during the week was handed over by the Receiver to the Collector, who in his turn, handed it over to the Bombay Bank. Payments for two or more Quarters were often demanded at the same time, and, on the other hand, some people were not asked at all for payment. If the numerical strength of the

establishment was not sufficiently great to allow of the duty being more efficiently performed, a representation of the fact was made by the Collector. If it was strong enough, the Collector insisted upon increased activity on the part of his subordinates, and if necessary replaced them by others more willing to work.

By the powers given by Act XXV of 1856, all that the Collector's Department had to do was to leave a blank schedule at each house. This paper was to be filled in (vide Section XV.) and returned duly signed to the Collector within a week. The rate payable having been inserted, the schedule was returned to the ratepayer who was bound by clause XXI to make full payment of the same within five days, unless he thought proper to appeal, for which measure a particular course of proceeding was laid down in the Act.

The same course of procedure was also fully authorised as regarded the House Tax and Water Rate. By the system then in force the expence was about 4·3 per cent. for collections, though this varied with the amount actually collected.

Surgeon Major Pelly, President of the Municipal Commissioners' in his report states :—"It has for some time been a matter of consideration with me whether it would not be better to abolish the Collector's Department, and 'farm' out the revenues of the Municipality. By the course proposed, we might arrange so as to have a given sum paid quarterly into the Treasury ; a fixed percentage on the assessment might be agreed upon ; bad debts, when ascertained to be really so, might be remitted, or better still, a small extra percentage might be allowed to cover risks, and no delay, no responsibility, would be entailed upon the Municipality for collection. The contractor working for his own interest would take care to prefer his claims before many, if any of the causes which originate irrecoverable claims could arise, and there is reason to hope that the system would work satisfactorily for all parties. It is our duty so to collect the taxes that the minimum portion of them should be expended in the cost of collection. The different systems for effecting this are, of course, open to discussion ; but it must be clearly understood, that whatever the system of collection may be, which is finally

Proposal to
farm out the
Municipal
revenues.

determined upon, the 'Assessments' in all departments must remain with the Municipal Officers."

Writing further Surgeon Major Pelly, states:—"The Assessor as also the Commissioner or his assistants should from time to time take houses &c., at random, call for the books, and after due inquiry, satisfy himself as to the correctness of the valuations &c. The temptation to corrupt practices must be strong and frequent; and while, on the one hand, we take good security to insure fidelity, we should, on the other, give such liberal pay as to render extra reward less necessary for existence, and thus remove the chief reason which would be assigned for dishonesty. Intelligence, activity and honesty are a necessary qualification for an Assessor as for an Accountant, and I certainly think we should get a considerable increase of revenue were we to be more liberal towards those upon whom we are in the first instance dependant for it."

Cost of collection.

The cost of collection of the rates and taxes during the year 1866, was $3\frac{3}{4}$ per cent. The percentage cost of collection and assessment under the old Board exceeded 5 per cent.

Separation of Assessing and Collecting Departments. Irregularities and Defalcations.

During 1867 some irregularities came to light and led gradually to a conviction that the system of combining the Assessing and Collecting Departments, as introduced by Mr. Arthur Crawford in 1865, with the sanction of the Bench, was unsuitable in connection with occupiers rates. The chief cases were those in the Tent Establishment for the recovery of Wheel Tax from labour Carts and the establishment for recovery of the Halalkhor cess for the period prior to 1st July 1867 when Act IV of 1867 legalised it. This matter at various times formed the subject of lengthy discussion by the Bench. Proceedings were instituted against the parties chiefly concerned, and were subsequently abandoned for want of ground on which to sustain the charge. There was no actual loss. To understand the enormous difficulty of checking the collection of the Halalkhor cess it must be remembered that the cess could not be legally demanded, and no demand could therefore be enforced. All payments were in point of fact, voluntary; and as the Act contemplated a demand for Halalkhor Cess equal only to what the party would have to pay for ordinary private service—and that service was paid for in

most cases by a head rate—the cess itself prior to Act IV of 1867 involved in most cases a census, taken roughly on the spot, of the number of inhabitants in each house, or an application to each individual inhabitant—no previous assessments could be made.

The Municipal Commissioner then issued the following memorandum of the redistribution of the duties of Assessing and Collecting the rates and taxes, and reorganization of the Department :—

“ The Commissioner has determined, with the approval of the Finance Committee, to separate the Assessing and Collecting Departments. He now issues the following instructions, to which he requests the particular attention of the parties concerned.

“ 2. In many details the new system will resemble the old, but it is still advisable that the present memorandum should contain the fullest particulars as to the future, even at the risk of repeating orders which are already in force.

“ 3. In separating the Assessing from the Collecting Department, the Commissioner cannot revert to the old system under the Act prior to 1865 because that system was found cumbrous and unsatisfactory when there were no occupiers rates, and because it would be obviously unsuitable for the Assessment and recovery of occupiers rates.

“ 4. Under the old system prior to Act II of 1865, the Assessor prepared a duplicate set of Assessment Books. One set he retained, the other he sent to the Collector, who prepared bills therefrom. It followed that the Collector was at a standstill until he received the entire Assessment Books, and as the labour of preparing them in duplicate was very great, it often happened that the work of recovery was delayed for months.

“ 5. If this was the case when the House Rate—an Owner's tax—was alone to be recovered by bills prepared once a year, what would be the delay and confusion with the occupiers rates, now prepared half-yearly, when the Assessor cannot begin assessing these rates until 15 days before they fall due? and if the labour of writing out two sets of House Rate Books was great, what would be the labour of writing out duplicate sets of occupiers rate books twice every year?

" 6. After careful consideration and consultation with the most experienced officers of the Municipality, the Commissioner has become convinced that the following is the best and simplest system possible under the present defective state of the law.

" 7. The preparation of bills is simple clerical labour, but if it were performed in the Collector's Office, as heretofore two sets of Assessment books would be required, and the former delay would recur. Let the Bills be prepared in the Assessor's Office and but one set of books will be required, and the work of recovery can proceed hand in hand with the work of Assessment.

" 8. From and after 1st May therefore, the Assessor will take charge of all the Assessment Books of whatsoever denomination. The Assessor alone will make Assessments or revise Assessments already made, and he alone will make the necessary entries in the Assessment Books in red ink, quoting the number and date of his decision and signing the entry.

" 9. All correspondence of whatever nature, relating to assessments or revision, or modification of them, to be filed as records of the office.

" 10. The Assessor to employ his two Assistants to aid him generally in the assessment for the House Rate and occupier's rates and especially in the Assessment of Wheel Tax and Water Rate, in assessing new houses and checking notices of vacancy. For this purpose he should allot half the Island to each.

" 11. The present subdivision of the City into Wards should not be disturbed.

" 12. The Assessor will further frame such departmental rules as he may find necessary, and will make his own arrangements for the punctual preparation of the bills.

" 13. All remission certificates (A) to be signed by the Assessor and sent by him to the Collector.

" 14. All refund certificates (B) to be signed by the Assessor and sent to the Collector.

" 15. Day by day, or every two days as is most convenient, the Assessor will forward to the Collector such Bills as may be ready, with a list of them. This list to be in triplicate, in form of counterfoil and cheque book.

" 16. One copy to go to the Collector.

" 17. One copy to go to the Controller who will debit Collector with gross amount thereof.

" 18. One copy with Assessor for record.

" 19. Up to this point, Assessor has made Assessments, has prepared bills, and has sent them to the Collector, who has been debited with the amount of them by the Controller.

" 20. It remains to show how the Collector is to recover the bills, and how to account for them to the Controller and the Assessor.

" 21. On receiving the bills the Collector will proceed to issue to the Receivers, registering in each Receiver's bill register the particular bills delivered to him, taking the Receiver's signature in presence of a witness, and attesting the same himself.

" 22. The Receiver having recovered as many bills as he can will present himself at the office, on his appointed days and will get his Receiver's recovery sheet (C) filled in by a clerk in the office. This he will sign, and the Collector will then post them up and initial his register, requiring the Receiver at the same time to account for and produce all Bills in hand unrecovered. New bills will be issued to him as before. Receiver's check ledger will then be written up and signed by the Collector.

" 23. The Receiver's recovery sheet (C) having been signed by the Collector will be passed on to the Assessor on the following day, and the Assessor will then post up the recoveries in the Assessment Books.

" 24. A daily cash book shall be kept by the Collector's Accountant in which, after entering the gross recoveries under each rate, and payments made to the Controller or Bank of Bombay, he shall enter all payments of cash received in the office after hours. This book to show all cash in office at any time, to be signed daily by the Collector. Monthly returns of recoveries of each rate to be prepared by Collector's Accountant and sent by Collector to Controller as at present. The Receiver's registers and all ledgers to be posted up and their bills in hand examined by the Collector himself or by one of his two Assistants.

" 25. These books on no account to leave the office or to pass into the hands of any subordinate clerk.

" 26. A bill not having been paid, the Collector will issue a Notice of Demand, and should that have no effect a Warrant is to be prepared by him and issued under the Commissioner's Signature to the Warrant Officer, who, as at present, will employ certain picked Receivers' for the duty of enforcing Warrants making weekly returns to the Commissioner and Collector as at present.

" 27. As to the Tent Department for recovery of wheel and Horse Tax for labour carts, it involves both Assessment and Collection, and will for convenience sake, be exclusively under the Assessor, who will see that no money under any pretext remains in hand."

Defalcations.

On the 24th September 1890, the Municipal Commissioner under his No. A/13233 reported for the information of the Standing Committee that defalcations to the extent of Rs. 31,809-4-6 were discovered in the books of ward clerk Jamsetji Muncherji of A ward. The fact was first discovered on 23rd August 1890, when Mr. Atmaram Motiram the Superintendent of the Ward mentioned to the Assessor and Collector on the occasion of his visit to the Ward Office, that he was not satisfied as to the correctness of the ward clerk's accounts. Mr. Pearson thereupon sent for the ward clerk and proceeded to compare his ledger with the bills actually in his possession. The fraud was discovered. The ward clerk pleaded guilty at the Session Court and was sentenced by the Hon'ble Mr. Justice Telang to three years rigorous imprisonment.

In 1901, two other frauds were committed (1) by Bomanji Edulji Mistry, a ward clerk of E Ward and (2) Edulji A. Guzdar a ward clerk of B Ward. In the former case, the ward clerk was convicted on three charges and fined Rs. 300 with one day simple imprisonment. He was acquitted on the other charges. In the latter case, the ward clerk forged the Assessor's signature on duplicate bills and recovered the amounts from the rate payers. This man absconded and has not yet been traced.

Inspection of
Houses in
1794.

In 1794, it was usual to issue a notification requiring the public upon an application made to them by Captain H. Blachford, Surveyor of the Town, to allow him entrance into and to take measurement of estates, &c. In 1901, the Municipal Commissioner, under Act III of 1888,

is authorised to delegate powers of inspection to the staff of the Assessment Department without the issue of any notification in the Local Newspapers.

The following Proclamation was issued in 1795 :—

Advertisement.

His Majesty's Justices of Oyer and Terminer, in Sessions assembled, having considered and approved the valuation made by the Committee of Buildings, upon the several houses, buildings and grounds within the Garrison of Bombay, have ordered and directed that the said houses, buildings and grounds, so valued and estimated and the owners and occupiers thereof, respectively shall be, and the same are hereby assessed by the year, at the rate of one twentieth part of the respective sums, at which the same were valued and estimated being one twentieth part of the gross annual value thereof.

(Signed) JAMES MORLEY,

Clerk of the Peace.

BOMBAY, 29th January 1795.

Under the Municipal Act III of 1888, the procedure is different. A notice is given in the news papers notifying the completion of the entrees in the Assessment Book. All complaints against the same have to be heard before the expiry of the official year. Thereafter in the absence of appeal, the valuations so confirmed are final for the year.

On the 7th July 1834, it was agreed by the Bench that instead of keeping the Assessment accounts in rupees quartos and reas, it should be kept according to the plan introduced by Government in rupees, annas and pies.

In the year 1870 and prior to that year, the mode of registering the tax payer differed from that in vogue in 1901. In the former year the classification was according to the amount per annum while in the latter year, there is a ledger and Assessment Book which gives details of Assessment.

The number of householders paying house rate in 1870 were :—

Between Re. 1 and Rs. 50 per annum	11,905
" Rs. 51 " " 100 "	1,412
" " 101 " " 250 "	815
" " 251 " " 500 "	232
" " 501 " " 1,000 "	832
" " 1,001 " " 2,000 "	83
" " 2,001 " " 3,000 "	19
" " 3,001 " " 4,000 "	6
" " 4,001 " " 5,000 "	3
and above 5,000	9

Proclamation
of 1795 re :
Assessment of
Houses.

Reas changed
into Pies. Keep-
ing of accounts
in Rs. As. and
Pies.

Houseowners
in 1870.

No. of Rate-
payers.

The Police	Rate was paid by	25,097 persons.
„ Lighting	„ „ „	25,090 „
„ Halalkhore	„ „ „	16,007 families served.
„ Water	„ „ „	10,451 persons.
„ Wheel Tax	„ „ „	8,263 „

The payment by Government and the Port Trust, in lieu of the General Tax, are not made on bills; they are made direct into the Chief Accountant's office.

The House rate in 1870, required	44,896 bills yearly.
Police, Lighting & Halalkhore	„ 49,911 „ „
Water rate	„ 41,804 „ „
Wheel Tax	„ 16,477 „ „

Total No. of bills per Annum 1,53,088

In 1898-99, about 13,365 Wheel Tax bills were issued. In this year the General, Water and Halalkhor taxes are charged in one bill, except water tax by meter and the charge for special Halalkhor tax. 73,314 bills were issued.

In 1870, 16,602 Notices of Demand were issued, 11,546 Distress Warrants of which 7,594 were actually executed. In 1899 the figures were 2,517 Warrants 22,018 Demand Notices.

Bills and War-
rants &c., issu-
ed.

Outstanding
Balances.

The water
Rate.

The total outstanding balances including those for former years on 1st January 1866, amounted to Rs. 8,40,850-9-0 of which Rs. 73,255-7-5 were written off. The outstanding balance on 31st March 1901, was Rs. 3,68,242 whereas upto the end of 1865, the water rates calculated on House Assessments was leviable at $7\frac{1}{2}$ per cent. on the Assessed rentals, it was reduced for 1866 as follows:—

On the 1st Hundred rupees monthly rental	5 per cent.
2nd „ „ „	$2\frac{1}{2}$ „
3rd „ „ „	and successive hundred $1\frac{1}{4}$ „

In this year, the water rate by meter was raised to Re. one per 1000, gallons. The trade rate which is the highest levied in 1900, is only annas twelve per 1000 gallons. The tax on rateable value is 4 per cent.

Revaluation
and Re-Assess-
ment of pro-
perty.

A general revaluation and re-assessment of property was undertaken by the Assessor under the orders of Mr. Peile in 1872, and was completed at the commencement of 1873. A special grant of Rs. 5,500 was made for

establishment to perform this work. The effect of the revision of Assessment was not, as was anticipated, by Mr. Hope and Mr. Peile, to increase the amount of valuations, and consequently of assessment, but the reverse. The gross valuation of assessable property fell from 129 $\frac{1}{4}$ lacs to 126 $\frac{3}{4}$ lacs. The reduction was due to the fall in the rents of dwelling houses.

The number of persons entitled to vote in the year 1872 amounted to 3,893 and in 1901 to 8,291 as follows :—

	1872	1901
Europeans ...	165	461
Portuguese ...	108	206
Parsees ...	1,074	2,191
Hindus ...	1,621	3,246
Mahomedans ..	896	2,100
Chinese...	...	3
Jews and Armenians	29	84
	3,893	8,291

Number of
Electors.

The long pending question whether the Railway Companies were liable to be rated as owners, in respect to the *lands* in their occupation, and if so, on what principle they were to be assessed, was determined on the 27th May 1872, when the Chief Justice delivered judgment, deciding that the Railway Companies were not owners within the scope of the Act, and that therefore, they could not be called upon to pay the *owner's* rates upon the land in their occupation. In the opinion of the Chief Justice, "Government appears to be the owner of the land," but for reasons given by him, Sir M. Westropp did not offer any opinion in respect to what the liability of Government might be. Government was however addressed by the Municipal Commissioner on this subject, on 3rd July 1872, and in the Resolution No. 224 of 21st January 1873 Government stated that "they cannot admit their liability to pay owner's rates on the lands in the occupation of the Railway Companies."

Assessment
of land in
occupation of
Railway Com-
panies.

Section 36 of the Bombay Port Trust Act 1879 has the following :—

Port Trust
Assessment.

"The Board shall pay annually, on the 30th day of September to the Municipal Corporation of the city of

Bombay, a lump sum which shall be calculated at the following rates *viz* :—

‘ (a) for a period commencing on the 1st day of October last preceding the date on which this Act comes into force and ending on the day next previous to the date fixed by the Governor in Council, under section 29, at the rate of Rs. 50,000 per annum. (b) For the period commencing on the date fixed as aforesaid and ending on the 25th day of June 1883, at the rate of Rs. 60,000 per annum. (c) Thereafter at such rate as the Governor-in-Council shall from time to time determine.’ ”

Mr. (Now Sir Charles) Ollivant while Municipal Commissioner took up the question of the Port Trust assessment and after considerable correspondence between Government, Port Trust and the Municipality as to the basis of Assessment, Government in their Resolution No. 400 Marine Department dated 19th September 1885 fixed the amount at Rs. 1,61,190 payable for each of the years 1884-85 and 1885-86. The amount payable during 1898-99 was Rs. 1,70,420.

Reorganisa-
tion of the
Assessment,
Collection,
and Refund
Departments.

In the year 1882, Mr. (Now Sir Charles) Ollivant undertook the reorganisation of the Assessment Department and under his orders the late Rao Bahadur Virprasad Tapiprasad, Special Assistant to the Municipal Commissioner drew up a set of rules and orders which regulated the working of the Assessment Department and which till the present moment (1902) is still followed. These rules prescribed the following :—

“ There shall be one officer to be called “ The Assessor and Collector,” who subject to the control of the Commissioner, is responsible for the Assessment of all properties in the city and for the collection of property taxes and tax on vehicles and animals.

“ 2. He will be assisted by two or more officers (at present three) to be styled Assistant Assessors, who shall be subject to his orders, and who will be charged with the duty of supervising and testing the Assessments and collections made by the ward officers. The supervision of the several wards of the city will be divided between the Assistant Assessors and they will be responsible, in subordination to the Assessor, for seeing that the provisions of the Act relating to the Assessment are not overlooked,

that the books are kept in the prescribed form and that bills are issued and collections made punctually and regularly.

“A Head Inspector and collecting officer will be placed in charge of each ward. Each of these officers will be styled a “Ward Superintendent.”

Each ward will be divided into sub-wards and for every such sub-ward one or more ward clerks will be appointed, who will be under the immediate orders of the Ward Superintendent and will be charged with the inspection of properties, and the collection of bills on account of property taxes and wheel tax, in their respective sub divisions.

The Head Quarters of the Assessor and his Assistants will be at the Municipal office where all Assessments will be recorded, complaints heard, increases or reductions made, bills and compulsory processes issued, recoveries credited, and ratepayers and other lists prepared. There will be at the Head Quarters office a Registrar and Accountant, and such registration and correspondence clerks as will suffice to ensure order and punctuality in transacting the business of the Department.

There will be a separate ward office for each Superintendent, situated as nearly as possible in the centre of each Superintendents charge, and each Superintendent will have one or more office clerks to assist him in the preparation of such returns as he may be required to submit.

Then follows the forms in which the Assessments are to be entered and the mode of keeping them &c. Finally comes the general instructions as under :—

“It will be the duty of each ward clerk to visit every property in his charge at least once in a quarter, and oftener as special circumstances in connection with applications, complaints, appeals, and liability to wheel Tax may require; and the Ward Superintendent, subject to the same special requirements, will visit each property not less than once a year, and certify that the particulars as recorded in the books are correct. The Assistant Assessors must verify the ward reports by an inspection of not less than 25 per cent. of the properties in each year, and must

examine the ward records once in every quarter, and furnish a certificate of his examination to the Commissioner through the Assessor.

“The Assessor besides giving constant attention to the outdoor and office work of his Department, and efficiently controlling the whole organization thereof, will be expected to make Assessment questions a special study (referring to English text books on the subject) and to frame rules for the classification of properties, and for the system of valuation to be applied to certain classes of properties, which rules will, after being approved by the Commissioner, be regarded by the officers of the Department as a standard by which existing valuations may be checked. Both with regard to Assessment and Collection duties a systematic procedure must be adopted. Proceedings on appeal must be carefully watched, and the Assessor must see that full materials are placed before the Chief Judge of the Small Causes Court to enable him to determine on intelligible grounds at what amount the property in dispute “may be *reasonably expected* to let for.”

“Both the Ward Superintendent and the ward clerks must attend the Ward Office every day (other than a holiday) at hours which may be most convenient, having regard to the times at which, in the peculiar circumstances of each locality, the outdoor, duties can best be performed. Under no circumstances are sums collected to be retained by the ward clerks for more than 24 hours in their possession, nor by the Ward Superintendents for more than 48 hours. Collection should be despatched daily to the head office, if possible so as to reach the office not later than 10-30 a.m.

“The Ward Superintendent will be held strictly responsible for seeing that no greater quantity of bills is issued on any one day to each ward clerk than the ward clerk may be reasonably expected to serve in the course of the day—or if they are issued in the evening, than he may be reasonably expected to serve in the course of the next forenoon. All officers concerned will be responsible for seeing that the provisions of the Act relating to special notice of demand and warrant of distress are punctually complied with in cases where ordinary presentation of the bill is not followed by the payment of the amount due.”

Assessment Rates.

From 1869 to 1873.	House rate was 6 per cent., Police rate 2 per cent., Lighting rate 2 per cent.
„ 1874 „ 1877.	House rate 5 per cent. Police rate 2 per cent. Lighting rate 2 per cent.
„ 1878 „ 1880.	Consolidated rate 9 per cent.
„ 1881 „ 1883.	„ 8 „
„ 1884 „ 1893.	„ 8 „
„ 1899 „ 1900.	„ 12 „*

BOMBAY HACK CONVEYANCES.

The means of conveyance in Bombay has wonderfully improved during the last century. About one hundred years ago, the mode of conveyance consisted of Chariots, Coaches, Phaitons, and Buggies of Europeans. Then there were single horse pleasure Hankries and hired ones. In Salsette, the labour cart differed from the pleasure cart. In years gone by the passenger used to sit alongside the driver and the carriage (a Buggy) was only intended to accommodate one passenger. As time went by, the Buggy was slightly altered by changing the seat of the driver who sat on a small chair like a seat immediately in front of the fare, thus permitting the Buggy to accommodate two passengers. This mode of conveyance was in vogue for a few years and then some philanthropic speculator introduced the English Cab into Bombay, but unfortunately it had only a short life, possibly it did not prove a financial success and lastly the Victorias of 1901, are the best mode of conveyance. They accommodate from three to four passengers and some of them are very comfortable indeed. In 1902, some of the public Victorias have rubber tyred wheels. The Bombay Tramway Company which started in 1874 charge an all round fare (with one exception only *i. e.*, $\frac{1}{2}$ anna between Bori Bunder and Crawford Market) of one anna which is a great boon to those who have frequently to traverse the City.

* On account of heavy Plague expenditure.

Number of
Vehicles in
the city.

The following table shows the number of Vehicles in the City in 1807 and the rate chargeable in respect thereof :—

Wheel Tax.	Chariots, Coaches, Phaitons, & Buggies of	No.	Rs.
	Europeans	85 each	6 P. A.
	Natives	91	6 "
	Hired Chariots and Buggy	2	15 "
	Bullock Hankries	101	15 "
	Pleasure	140	7½ "
	Labour Carts	643	5 "
	Single Horse Pleasure Hankries	115	17½ "
	Hired	16	25 "
	Salsette Labour Carts	231	2½ for 6 months.
	pleasure Carts	3	3½ "

Mahim Wheel Tax Account.

Labour Carts	...	...	No. 208	Rs. 4 P. A.
" "	...	...	31	2 for 6 months.
Hired Hankries	...	...	11	6 "
" "	...	...	45	12 P. A.
Pleasure	...	...	36	6 "
" "	...	...	3	3 for 6 months.

The total tax on carriages and horses collected from January 1809 to August 1810 amounted to Rs. 15,704 3 Quarters and 66 reas.

Wheel Tax
collection.

The monthly collection during 1809 was as under :—

	Rs.		Rs.
January	... 658·2	July	... 597·1
February	... 558·1	August	... 985 0
March	... 326·3	September	... 542·1
April	... 563·1	October	... 755·2
May	... 792·2	November	... 986·3
June	... 594·1	December	... 499·1

In 1867 the total amount collected was Rs. 2,35,000. In 1877 Rs. 2,40,000 were collected while in 1897 it totalled up to Rs. 3,46,837. The estimate of income for the year 1900-1901 was Rs. 3,45,000.

The following figures shows the number of public Conveyances from 1857 to 1873.

Years.	No. of labour carts.	No. of bullock hackeries.	No. of hack buggies.
1857	2,762	690	417
1858	2,954	743	472
1859	4,429	725	490
1860	4,714	670	525
1861	4,760	656	519
1862	4,769	636	552
1863	5,206	644	564
1864	6,205	668	557
1865	6,181	683	610
1866	9,424	720	1,088
1867	6,454	627	618
1868	6,614	565	670
1869	6,314	570	678
1870	5,641	586	640
1871	5,280	536	657
1872	4,816	515	715
1873	4,643	508	653

The total number of vehicles taxed at the end of 1899 was 4,543 against 4,555 in the previous year. The variation in different descriptions of vehicles is more marked. Thus while 4-wheeled vehicles diminished from 3,396 to 3,286, 2-wheeled rose from 776 to 835 and vehicles propelled otherwise than by horses, &c., from 383 to 422. Of bicycles and tricycles, which are not classed as "vehicles," 910 were brought under taxation against 661 in the previous year. 5,161 horses were taxed against 3,696 in the previous year (including horses for sale on commission). Ponies taxed were 188 against 191, and bullocks 879 against 754. Only one donkey was taxed in 1898 and 5 in 1899. The amount of taxation was Rs. 1,65,876 against Rs. 1,62,961 for 1898. The tax on licensed public land conveyances, with license fees and fees for badges realized only Rs. 1,39,899 against Rs. 1,76,666 in the previous year.

Vehicles
Taxed.

Levy of Toll
on the Sion
Causeway.

In 1826, the following toll was levied on the Sion Causeway.

4 Wheel Vehicles on Springs ...	Re. 1 for going and coming.
2 " " " " " ...	" $\frac{1}{2}$
Saddle or Harness Horses ...	1 anna.
Native Hackeries on Springs ...	2 "
Labour Carts and Labour Hacke- ries without Springs ...	1 "
Tattoos and horned cattle of every description ...	$\frac{1}{2}$ "
Sheep and Goats... ..	2 " per score.

A toll is still levied on this causeway.

The Cycle
Tax,

Within recent years, the cycle tax occupied a great deal of consideration at the hands of the Bompay Municipal Corporation. The tax was first sanctioned to be levied, then its collection was temporarily suspended and finally it was resolved that the tax being legally leviable it should be collected like the ordinary wheel tax. The collection of the tax was no little matter, the chief difficulty being to trace owners of cycles. Under the Municipal Act of 1888, Inspectors have no power without permission to enter premises, and that being so, the record of traced cycles is hardly a correct estimate of the number existing in this city. Prosecutions were instituted against a number of cycle owners for having failed to give notice of possession within fifteen days of having possessed a cycle, as required by the provisions of the Municipal Act 1888 and although convictions were obtained in certain cases and fines inflicted, yet the difficulty has not been overcome and still a large number of cycles remain untaxed in the city. Special cycle Inspectors were appointed by the Corporation for the purpose of tracing cycle owners and although the Assistant Assessor (Mr. L. W. Michael) of the Municipality prosecuted defaulters yet there is no record of how many cycles exist in the city. Possibly an amendment of the Act of 1888 may have the desired effect.

Statement showing the principal sources of income from 1867.

Years.			House Rate.	Wheel Tax.	Water Rate.	Halalkhor Cess.
1867	...	...	8,52,854	2,35,000	4,50,000	2,40,000
1868	...	...	9,28,460	2,35,000	4,75,000	2,40,000
1869	...	...	7,69,306	2,60,000	4,75,000	2,40,000
1870	...	...	6,92,783	2,63,000	4,00,000	2,25,000
1871	...	...	6,92,000	2,51,313	3,80,000	2,16,723
1872	...	...	7,79,177	2,52,000	3,86,182	2,14,758
1873	...	...	7,35,871	2,21,263	3,95,662	2,03,923
1874	...	...	5,94,813	2,52,600	3,14,000	1,97,990
1875	...	...	5,78,450	1,97,139	2,60,586	1,49,722
1876	...	...	5,53,230	2,41,850	2,88,840	1,94,430
1877	...	...	5,50,000	2,40,000	2,96,000	1,95,500
1878	...	...	5,45,500	2,36,500	2,95,000	1,96,500
1879	...	...	9,73,200	2,38,750	3,45,000	1,98,500
1880	...	...	9,90,100	2,15,700	3,45,000	2,13,400
1881	...	...	9,15,100	2,22,500	3,65,800	2,30,000
1882	...	...	12,34,975	3,90,687	6,70,677	3,28,915
1883-4	...	...	9,83,538	2,40,092	5,47,646	2,43,556
1884-5	...	...	11,80,307	2,92,766	5,96,123	2,89,616
1885-6	...	...	14,61,304*	3,17,123	6,65,370	3,16,786
1886-7	...	...	14,88,867	3,03,804	7,74,651	3,18,630
1887-8	...	...	14,07,013	3,22,659	8,83,724	3,72,257
1888-9	...	...	14,66,024	3,14,570	9,63,804	3,90,038
1889-90	...	...	16,61,696	3,25,615	11,23,005	4,73,919
1890-1	...	...	16,90,277	3,56,647	11,49,198	5,27,222
1891-2	...	...	19,19,345	3,42,973	11,81,428	5,55,877
1892-3	...	...	19,39,339	3,44,905	14,07,081	6,22,199
1893-4	...	...	18,59,824	3,51,174	12,86,828	5,82,026
1894-5	...	...	18,58,710	3,56,081	13,88,264	6,81,556
1895-6	...	...	18,77,437	3,65,524	14,42,895	6,57,812
1896-7	...	...	18,54,966	2,46,681	13,98,910	6,88,485
1897-8	...	...	20,56,286	3,46,837	13,29,851	7,35,485
1898-9	...	...	22,24,213	3,39,199	15,00,970	7,13,122
1899-1900	...	...	29,94,516	3,02,748	17,72,966	7,25,263

* Includes arrears of contribution from Port Trust for 9 years.

LAW CHARGES.

At the High Court on 25th July 1901, the Hon'ble Mr. Justice Starling delivered judgment dismissing the petition and rule in the matter of the rule *nisi* calling upon Mr. W. D. Sheppard Acting Municipal Commissioner, and Mr. M. N. Wadya, Municipal Secretary to show cause why they should not be restrained from issuing any cheque or other order directing the Bank of Bombay to pay to Messrs. Crawford Brown & Co., the Municipal Solicitors or any one on their behalf the sum of Rs. 21,000 ordered to be paid by a resolution of the Municipal Corporation of the 24th June 1901, and also calling upon the Corporation to show cause why they should not be restrained from permitting the payment of the amount to their Solicitors.

An appeal was filed but as none of the parties to it appeared, the same was dismissed.

EDUCATION.

The number of Municipal Schools for the period ending 31st March 1900, rose from 79 to 81; the pupils from 3,618 to 5,018; and the fee receipts from Rs. 12,424 to Rs. 13,416. In spite of difficulties caused by the unhealthiness of the year the work of Municipal Schools was, on the whole, fairly satisfactory. Aided Schools increased from 86 to 89, the pupils in them from 5,860 to 6,651 and the grants-in-aid to them from Rs. 19,342 to Rs. 19,992. With one more Night School opened during the year, the total of these was 16 and the attendance increased from 167 to 217. Besides the above there were working in the town, 12 unaided schools recognized by the Joint Schools Committee with 1,124 pupils on the rolls and 199 unaided and unrecognized Schools with 8,234 pupils. A census of private schools taken by the Committee about 5 years ago showed 280 schools and 18,174 pupils. A large number of these schools have since disappeared owing to plague. The total number of boys under instruction in schools managed or aided by the Joint Schools Committee increased

from 6,066 to 7,838 and of girls from 3,412 to 3,781 a satisfactory advance considering the circumstances of the city in the year. For the healthy and comfortable housing of these schools every effort has been made by the Committee. The City Improvement Trust have been addressed as to the feasibility of reserving sites for schools in localities likely to be populated by the lower and middle classes. In the matter of physical exercise, the Committee are anxious to proceed on the principle that "no school should any more be without a playground than a school house should be without windows," and although everything possible is being done, the want of funds has been a great impediment. With a view to spread among their teachers a knowledge of rational methods of teaching, some female teachers are being put through a course at a normal class opened at the Bai Bhicaiji Bengallee School. The year 1899-1900 was the tenth of the Committee's administration of primary education in the city, and the progress made is described in a decennial review at the end of their report.

INDIAN RAILWAY BILLS.

The Committee of the Corporation submitted their report on the Indian Railway Bill on 11th September 1889 and the Corporation under their resolution No. 3791 approved and adopted that report. Further discussion thereon took place at the Meetings held on 26th February 1890, and 12th March 1890.

EXCHANGE COMPENSATION TO MUNICIPAL EMPLOYEES.

On 12th October 1893, the Corporation on the motion of the Hon'ble Mr. Chimanlal H. Setalwad resolved to inform Government that the Corporation do not desire any alteration in the Municipal Act which would enable them to pay exchange compensation allowance to the Municipal Commissioner and the European and Eurasian Officers of the Municipality.

DEATH OF H. M. QUEEN VICTORIA.

An adjourned meeting of the Bombay Municipal Corporation was held at the Municipal Offices on 24th April 1901, Mr. S. Rebsch presided.

Mr. Rebsch said:—Gentlemen, we meet together to-day overshadowed by a great grief, a grief which we share in common with every member of this vast Empire. I am sure I speak for every inhabitant of this large city when I say that the news which we heard yesterday of the death of Her Most Gracious Majesty, Queen Victoria, was received by all with the most heartiest sorrow and with the deepest regret. Her Majesty was permitted to reign over us for an unprecedented long period of years, representing the greater part of the 19th century, a century remarkable not only for its extraordinary changes, but the rapidity with which such changes had taken place. The development of art, the extension of civilization, the material and moral progress made were all of a remarkable kind and all took place with a rapidity unknown previously in the world's history, and for the guidance of the Empire, which we have the honour to serve, She required tributes of no ordinary kind. That Her Majesty was able to wisely conduct our Empire through various crises in the world's affairs was, I think, very largely due to her extraordinary power of being in touch with all classes of her subjects. This tribute of gratitude to her loyal devotion to the welfare of the Empire had obtained the loyal support of all her subjects, whether they were particularly interested in the administration of the country or not, because her administration was of a just kind. This view of her Majesty's reign, I venture to think is one we have all had in our minds. We feel that in her loss we have lost part of ourselves and the guiding spirit of our age. So we mourn not in an ordinary way, but we mourn for what, if I may say so, was a personal friend and one for whom we had all the greatest reverence and the highest regard.

Mr. W. L. Harvey, the Municipal Commissioner, said, it only remained for him as a matter of urgency to claim priority for the resolution that was about to be brought forward.

The necessary sanction of the meeting having been obtained, Mr. R. M. Sayani said: Mr. President,—As the senior past President present it is my melancholy duty to propose this resolution, and it becomes more melancholy still for us here for I have just been reminded that on this day in the year 1862 the citizens of this city met together to lament the loss of his Royal Highness the late Prince Consort.

Mr. Sayani then proposed the following resolution which was carried:—

“1. That the Corporation of the City of Bombay have learnt with heartfelt sorrow of the death of Her Majesty Queen Victoria Empress of India; and desire to record their respectful condolence with the Royal Family in this great calamity which

has brought a reign of unparalled lustre and glory, to an end and deprived the millions in every part of the British Empire of the just and beneficent sway of the Sovereign whose unsurpassed virtues have secured their undying affection.

“ 2. That the President be requested to convey to His Majesty the King and Emperor and the Royal Family by telegram through the proper channel a suitable expression of condolence and sorrow.

“ 3. That a Committee composed of the President (Mr. S. Rebsch), Sir Bhalechandra Krishna, the Hon. Mr. Ibrahim Rahimtoola, Mr. D. E. Wacha, Mr. J. Macdonald, Major Mayne, Sir Jamsetjee Jeejeebhoy, Mr. Mulji B. Barbhaya and Mr. R. M. Sayani be appointed to draft an address to His Majesty, expressive of respectful condolence and of deep felt loyalty to his Majesty's throne and person, and be requested to submit the same draft to the Corporation at the earliest opportunity.

“ 4. That the Corporation will be prepared on recommendation of the Standing Committee to sanction the necessary funds for the cost of the telegrams and the cost of engraving and encasing the address and for any other necessary expenses in connection with this mournful event.

“ 5. That as a dutiful token of respect towards her late Majesty's revered and sacred memory, this meeting do now adjourn without proceeding to the transaction of business.”

TRADE MUSEUM.

A communication from Government No. 2229 General Department dated 24th June 1893, on the question of the expediency and practicability of the formation of a Mercantile and Trade Museum in Bombay on the model of those in Germany, was recorded under Resolution No. 4456.

PHYSICAL EDUCATION.

On the motion of the Hon'ble Mr. P. M. Mehta the Corporation at their Meeting held on 8th May 1899, recorded a communication from Government, Educational Department No. 468 dated 15th April 1899 forwarding a memorandum by the Hon'ble Rao Bahadur Achyut Bhasker Desai on the necessity of holding Annual Tournaments in encouragement of Physical Education.

ADULTERATION OF GHEE.

An Act dealing with the adulteration of Ghee, came into force during 1899. Prosecutions were instituted by the Divisional Health Officer against several persons from whom Ghee was purchased, which, on examination by the Chemical Analyser to Government was found to be adulterated to a great extent. Convictions were obtained in the cases.

LANDSLIP AT WALKESHWAR.

A Landslip at Walkeshwar Road occurred on the 6th July 1887, when a portion of the road settled down opposite the water tanks near Chowpati, owing to the combined action of the sea and the rain water from the Hill. To overcome the sinkage which happened annually during the rains for some years previous to 1887, a grant of Rs. 6,027 was obtained on 20th October 1887, and a retaining wall and a culvert were constructed. The work was commenced in November 1887, and completed during the year within the sanctioned amount.

TRANSFER OF WELLINGTON FOUNTAIN TO THE MUNICIPALITY.

Captain Fuller on 3rd October 1865, wrote the following letter to the Municipal Commissioner regarding the transfer of the Wellington Fountain to the Municipality :—

“I should feel obliged by your informing me, whether you will receive charge of the Wellington Fountain as a public monument on completion, with the view to arrange the lighting of the lamps with gas and turning on the water &c.

“2. The connection has been made with the Vehar Sub-Main and all the Gas Pipes laid but the Gas connection has yet to be made and this I will get done.”

To this communication, the Municipal Commissioner under his No. 1807 of 1865 replied as under:—

“ Referring to your letter No. 197 dated 3rd instant, I have the honour to inform you that I am prepared to receive charge of the Wellington Fountain on completion and will make the necessary arrangements for lighting and turning on water &c.”

THE FRERE FOUNTAIN.

The Frere Fountain situated in the centre of Esplanade Road facing the eastern entrance of Church Gate Street was originally intended to be placed in the Victoria Gardens by the Agri Horticultural Society. The construction was completed out of the Funds of the Esplanade Fee Fund Committee.

QUEEN'S STATUE.

The handsome statue of Her Majesty Queen Victoria was a gift of Khanderao Gaikewar and cost a lac and three quarters or thereabouts.

THE NEW MUNICIPAL OFFICES.

The New Municipal Offices at Bori Bunder was constructed under the supervision of Mr. F. W. Stevens C. I. E. Its actual cost was Rs. 11,19,969. Its foundation stone was laid by the Marquis of Ripon.

PAWN BANK.

At the meeting of the Town Council held on 6th April 1883, it was *Resolved*:—

“ That in transmitting to the Corporation the scheme for the formation of a Pawn Bank, the Town Council are of opinion that Government should be recommended to introduce such legislative measures as may be necessary

for the formation of such a bank; and at the same time express the opinion that a Pawn Brokers' Act should be worked side by side with the Pawn Bank or Mont de Piété."

On 6th July 1883, the Corporation passed a resolution in which they expressed their opinion that they did not consider it desirable to undertake the promotion and management of a Pawn Bank and Government were informed accordingly. Subsequently at the meeting of the Corporation held on 10th August 1883 it was proposed by Navroji Furdonjee Esq., seconded by Sir Frank H. Suter. :—

That with reference to the letter from Government No. 6846, Judicial Department dated 15th October 1881, the Corporation concurred with Government in the advisability of introducing a measure in the Legislative Council for regulating and bringing the business of Pawn Brokers under such terms and restrictions as to rate of interest, giving Pawn tickets and other matters as may seem desirable to Government."

A proposal to refer the Draft Pawn Bill to a Committee was *lost* and the motion *carried*.

The Bank was not however established.

SUNDAY MAIL.

The Corporation at their meeting held on 10th September 1889 considered a letter No. 9799 dated 10th September 1889 on the subject of the departure of the English Mail on Sundays as under:—

"You will have seen that it is proposed that the English Mail should leave Bombay henceforth on Sundays. It may be said that this is not a Municipal question but I venture to think it is a matter about which the Corporation may well express an opinion. If the President agrees with me, he will decide as to the best way of eliciting the views of the Corporation on the subject. It seems to me that no legitimate means should be neglected of protesting against the change which would have the effect of making Saturday and Sunday the busiest day in the week in all offices connected directly or indirectly with the trade of the City.

E. C. K. OLLIVANT,
Commissioner.

The President (Mr. Garttan Geary) proposed and the Hon'ble Mr. P. M. Mehta C. I. E. seconded "That the President on behalf of the Corporation as representing all classes and communities of the city of Bombay be requested to submit a respectful memorial to the Right Hon'ble the Secretary of State for India, protesting against the proposal to alter the day of departure of the English Mail to Sunday which would result in serious evils affecting the health and welfare of the business people of this city and entailing on passengers from all parts of India great inconvenience." *carried.*

Mr. J. De C. Atkins in his letter No. 3671 Financial Department informed the President that the memorial had been forwarded to the Secretary of State.

No. 3609.

FINANCIAL DEPARTMENT.

Bombay Castle, 24th September 1889.

Letter from the President, Municipal Corporation, Bombay, No. 3772, dated 18th September 1889. Forwarding for transmission to Her Majesty's Secretary of State for India, a memorial on behalf of the Municipal Corporation, protesting against the proposal to alter the day of the departure of the English Mails to Sunday.

Resolution: [The memorial should be forwarded to the Secretary of State, with an intimation that this Government entirely concur in the views expressed by the Municipal Corporation regarding the undesirability of the proposed change of the day of departure of the homeward bound Mail Steamers.

2. The President of the Municipal Corporation should be informed.—JOHN NUGENT, Chief Secretary to Government.

Proposed by T. B. Kirkham, Esq., seconded by the Hon'ble Mr. Rahimtula Mohamed Sayani—

"That letter No. 3671, Financial Department, dated 28th September 1889, from Mr. Acting

No. 4752.

Under-Secretary Atkins, forwarding Government Resolution No. 3609, Financial Department, dated 24th idem, regarding the memorial from the Corporation, protesting against the proposed change of the day of departure of the English Mails to Sunday, be *recorded.*"

Carried with acclamation.

The departure of the Mail was eventually fixed for Saturdays 2 p.m. in the Fair Season and Fridays in the Monsoon.

BOMBAY ART GALLERY.

In 1892 the Corporation on the motion of Chimanlal Harilal Sitalvad, Esq., seconded by Nowroji J. Gamadia, Esq., passed the following Resolution.

“That the Corporation disapprove of any grant being made to the Bombay Art Society from the Municipal Fund.”
No. 7932.

The Corporation refused to reconsider the question as will be seen from the following Resolution.

Proposed by Bhalchandra K. Bhatwadekar, Esq., seconded by Dinshaw E. Watcha, Esq.,—

“That the President be requested to inform the Commissioner that the Corporation see no reason for reconsidering their resolution No. 7607.
No. 7932 of 27th October 1892.”

Carried.

BOMBAY VOLUNTEER RIFLE CORPS.

An application from Capt. Crockett, Paymaster, Bombay Volunteer Rifle Corps, forwarded by the Municipal Commissioner under his memorandum No. 13271, to the Secretary, asking for pecuniary support to the Funds of the Corps from the Municipal Fund, was considered.

The Town Council resolved not to make a grant-in-aid of the Funds of the Bombay Volunteer Rifle Corps and therefore it was not necessary to apply for any amendments in the Municipal Act to allow of such a grant being made. (31st December 1880.)

ARTICLED PUPILS TO THE MUNICIPALITY.

A proposal to have articulated pupils in the Executive Engineer's Department of the Municipality was recorded by the Corporation in 1893.

TOBACCO DUTY.

It was on the suggestion of Dr. A. G. Viegas that a reference was made to Government on the question of enhancing the Duty on Tobacco. The following reply from Government thereon was *received*:—

“Memorandum from Mr. A. Wingate, Commissioner of Customs, Salt, Opium and Abkari, No. 4007, dated 27th August 1896—Submitting, with his remarks, with reference to paragraph 2 of Government Resolution No. 2868, dated 17th April 1895, copy of a letter No. C.—8236, dated 8th May 1896, from the Collector of Land Revenue, Customs and Opium, Bombay, who submits, together with his own note, a draft of a new Tobacco Act prepared by Mr. J. D. Framji, the Assistant Collector in charge of the Tobacco Department and a revised draft and note by Mr. A. M. T. Jackson, Assistant Collector of Land Revenue, Customs and Opium, Bombay.

“RESOLUTION.—The thanks of the Governor-in-Council should be conveyed to the Honourable Sir Andrew Wingate, Mr. Jehangir Dosabhai Framji and Mr. A. M. T. Jackson, I. C. S., for the full and carefully prepared suggestions which they have submitted to Government for the amendment of the Tobacco Act (No. IV of 1857). On careful consideration, however, of all the circumstances the Governor-in-Council is of opinion that the present is not an opportune occasion for an alteration of the existing law. The imperfections in it are obvious, but the call for reform is, on the part of the public at least, not urgent. The subject should therefore for the present be dropped. But the Commissioner of Customs, Salt, Opium and Abkari should be requested to take such executive action as the existing law allows to remove or abate any legitimate grievances felt by dealers whose business brings them under the supervision of the Tobacco Department.”

Proposed by the Hon'ble Mr. Bhalchandra K. Bhatawadekar, seconded by Haji Yoosof Haji Esmail, Esq.—

“That the memorandum from the Commissioner, No. 2241. No. 3999, dated the 25th May 1899, forwarding Government Resolution, Revenue Department, No. 3359, dated the 13th May 1899, on the question of amending the Tobacco Act, be *recorded*.”

Carried. (19th June 1899.)

Considered.—Letter to the President from the Secretary to Government, Revenue Department, No. 6004, dated the 28th August 1899:—

“With reference to your letter No. 2339, dated 22nd June 1899, to the address of the Secretary to Government, General Department, I am directed to state that the proposal of the

Tobacco
Act, amend-
ment of.

Bombay Municipal Corporation to raise the duty on tobacco and the license fee for the retail sale of that commodity would necessitate the amendment of the Tobacco Act, IV of 1857 ; that the advisability of introducing comprehensive amendments into that law has recently been under the consideration of Government, and that after full deliberation the Governor-in-Council came to the conclusion that the present was not a convenient occasion to undertake the legislation suggested. In the circumstances, Government regret that they are unable to accede to the request of the Corporation."

Proposed by Accacio G. Viegas, Esq., seconded by D. A. D'Monte, Esq., M. D.—

"That the President be requested to inform Government, with reference to their letter No. 6004, dated the 28th August 1899, that the Corporation are respectfully of opinion that the amendment of the Tobacco Act IV of 1857 with the object of obtaining a larger revenue, as suggested in the President's letter No. 2339, dated the 22nd June 1899, is, in the present financial condition of this Municipality and in view of its increasing financial responsibilities, a matter of urgent importance, and that the Corporation hope that if it is not convenient to Government to undertake the necessary legislation just at present, it may be undertaken at the earliest convenient date."

Amendment proposed by Chimanlal H. Setalvad, Esq., seconded by Edward Freeman Underwood, Esq.—

"That the letter to the President from the Secretary to Government, Revenue Department, No. 6004, No. 6061. dated the 28th August 1899, stating that Government are unable, in the circumstances explained, to accede to the Corporation's request as to raising the duty on tobacco and the license fee for retail sale of tobacco, be *recorded*."

The amendment on being put to the vote was *carried* by 11 votes against 5.

It was then put to the vote as a substantive proposition and *carried* by 14 votes *against* 2.

BIOLOGICAL TANK.

Letter from the Commissioner, No. 29598, dated the 12th February 1900 was considered by the Corporation on

15th March 1900, regarding the construction of a Biological Tank in Bombay.

"I have the honour to state that I propose to allow a small Biological Tank 9' x 9" to be constructed at Mody Bay on some recent reclamation belonging to the Port Trust and in the occupation of Messrs. Ewart Latham & Co. as a Bulk Oil Installation.

"2. The Biological Tank is for the disposal of all the sewage of the abovementioned premises and with the sanction of the Port Trustees will discharge its effluent direct into the Harbour.

"3. This being a new departure and in a measure constituting a new out-fall into the Harbour the sanction of the Corporation is requested under Proviso (a) of Section 245 of the Municipal Act."

Proposed by Sir Bhalchandra K. Bhatawadekar, Kt., seconded by Nanabhai N. Katrak, Esq.—

"That with reference to the Commissioner's letter No. 29598, dated the 12th February 1900, No. 13859. sanction be given under Proviso (a) of Section 245 of the Municipal Act, to the construction of the Biological Tank therein proposed which will discharge its effluent direct into the Harbour."

Carried.

STORAGE OF HAY IN THE CITY.

The quantity of hay imported into the City in 1892-93 is said to have been as under:—

By sea.

Essa Fuzla Bunder	..	..	..	..	427 Tons.
Frere Land Bunder	..	..	..	..	84,310 "

Total.. 34,737 Tons.

Gun Carriage Bunder	..	..	..	..	132 "
Mazagon Reclamation	..	..	..	..	541 "
Mahim and Worli Bunders	..	..	..	..	1,293 "
Modi Bay Reclamation	..	..	..	..	28,306 "
Victoria Bunder	..	..	..	..	570 "

Total.. 65,579 Tons.

By rail.

Colaba Railway Station	..	..	..	..	1,167 Tons.
Grant Road	"	..	..	..	23,771½ "
Mahim	"	..	..	..	829½ "
Wari Bunder	"	3,142½ "
Dadar Road	"	½ "

Total.. 28,911 Tons.

By road.

Parel Road Hay Market	66,570 Tons.
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Grand Total.. 161,060 Tons.

The following is a list of places licensed or authorized in 1893-94, as places of hay storage :—

Frere Road, Mody Bay, East ;
 Colaba Tramway Company (pressed hay) ;
 Frere Land Bunder ;
 Worli Road ;
 Clerk Road ;
 Dharavi Road ;
 Mahim Station ;
 Waree Bunder Road ;
 Dadur Road ;
 Bhoivada Cross Road ;
 Suparibag Road ;
 Elphinstone Road ;
 Lady Jamsetjee Road ;
 Parel Road (hay market) ;
 Gilder Road (pressed hay) ;

Hay is stored in large quantities at—

Frere Road, Mody Bay, East ;
 Frere Land Bunder ;
 Warli Road ;
 Clerk Road.

PAIL DEPOTS.

Corporation at their meeting held on the 7th May 1896 appointed a Committee for the reorganisation of the Health Department and that Committee in an interim report made on 9th April 1897 recommended the Corporation to approve of the immediate construction of pail Depôts on such sites as the Commissioner may determine it being understood that such Depôts were to be made use of pending the completion of house connections. The Corporation under their Resolution No. 1819 of 1897 approved and adopted the Committee's report.

PROPOSED CONVERSION OF THE BABULA TANK INTO A SWIMMING BATH.

On the 12th February 1894, Dr. Nanabhai N. Katrak proposed that sanction be given to the conversion of the Babula Tank into a swimming bath, regard being had to the following conditions (a) the alteration of the existing

sluice valve to a lower level so as to admit of the sewers connected therewith being flushed with the waste water of the bath (b) the admission of sufficient fresh water to produce a current in the tank water &c. The motion was however lost, the votes being 4[°] *for* and 20 *against* it.

COAL CONTRACTS.

A Sub Committee of the Standing Committee consisting of Messrs. T. W. Cuffe, Mulji Barbhaya, and Fazalbhoy Visram on the 18th May 1899 reported that the interests of the Municipality in regard to the purchase of coal will be best served if the Commissioner was authorised to dispense with the invitation for tenders and is asked as a general rule to purchase coal from direct importers only on a contract in the form in ordinary use in the market. The delivery of coal to be taken alongside in Bombay Harbour, a Muccadam being engaged or Departmental arrangements made for conveying the coal to the Municipal Depôts. The Committee however left it optional with the Commissioner either to purchase from coal dealers or to take delivery otherwise than alongside. Mr. Fazalbhoy Visram however differed from this report but the Standing Committee on his motion accepted the report deleting the optional clause.

Subsequently at their meeting held on 3rd March 1897, the Standing Committee under their Resolution No. 13256 concurred with the Municipal Commissioner as to the advisability of the Municipality being supplied with coal by *bona fide* importers under a regular contract as in the case of other supplies.

TOWN DUTY.

The Committee of the Corporation on 15th March 1901, reported that in their opinion the employment of Municipal agency was by no means advantageous. This recommendation was adopted.

DIPLOMAED MIDWIVES.

The Corporation at their meeting held on 18th February 1901, considered the report of the Committee on the desirability of entertaining diplomaed midwives for the purpose of attending poor Women at child birth. Dr. Viegas moved the adoption of the report but an amendment by the Hon'ble Mr. P. M. Mehta to record the same was carried.

LIST OF DHOBIES AT MALABAR HILL.

On a reference to the proceedings of the Corporation held on 8th March 1899, a list of private Dhobies washing clothes at Malabar Hill will be found.

PROPOSED APPOINTMENT OF 4th PRESIDENCY MAGISTRATE.

The Committee of the Corporation appointed on 25th August 1890 submitted their report on the 19th September 1890 agreeing with the opinion of the Governor-in-Council expressed in letter No. 3779 of 1890 that an additional Magistrate was urgently needed and that it was desirable that the Girgam Police Court should be removed to Byculla but the Committee was unable to see that in any principle of equity or fairness the cost estimated by Government of Rs. 900 per mensem should be contributed by the Corporation.

On the motion of Dr. Blaney seconded by Dr. Accacio G. Viegas, the Corporation approved of the report in question.

No. OF MILLS IN BOMBAY.

From the year 1863 to 1869 there were 13 mills in Bombay. Then it increased to 14 the year following, in 1872 it was 15, in 1873 it was 18 and the year following 19. In 1875 it was 36, in 1880, it was 42, in 1885, it was 68, in 1890 it rose to 94 in 1895 it was 102 and in 1900 there were 136 mills in Bombay.

RULES FOR LICENSED SURVEYORS.

The Standing Committee approved of the following regulations, framed by the Municipal Commissioner, for the guidance of licensed Surveyors and Plumbers, pursuant to the provisions of Section 356 of the Municipal Act III. of 1888 :—

Regulations prescribed by the Municipal Commissioner, with the approval of the Standing Committee, for the guidance of licensed Surveyors, pursuant to the provisions of Section 356 of the City of Bombay Municipal Act, 1888.

1. It will be incumbent on every licensed surveyor, in all matters in which he may be professionally consulted, or engaged to assist and co-operate with the Municipal Commissioner and other Municipal officers in carrying out and enforcing the provisions of the City of Bombay Municipal Act, 1888, and of any by-laws for the time being in force under the same.

2. Every licensed surveyor will, in every case in which he may be professionally consulted or engaged, be responsible, so far as his professional connection with such case extends, for due compliance with the provisions of Chapters IX, X., XI. and XII. of the City of Bombay Municipal Act, 1888, and of any by-laws for the time being in force under the said Act, or such of them as may respectively be applicable to the circumstances of the particular case.

3. In every case in which a licensed surveyor is professionally concerned in connection with any building or work upon any premises, in respect of which a right to require a set-back has accrued, or is about to accrue to the Commissioner under the provisions of Sections 297, 298 and 299 of the said Act or any of them, it will be incumbent on such licensed surveyor to ascertain whether "the regular line of the street" has been prescribed under Section 297, and whether any portion of the said premises is required for the street, and no licensed surveyor must on any account or under any pretence whatever be a party to any evasion or attempted evasion of the set-back (if any) that may be required.

4. In every case in which a licensed surveyor is professionally concerned in connection with any building or work upon any premises designed or intended to be used for any purpose in respect of which the written permission or license of the Commissioner is prescribed by the said Act as a necessary condition to the establishments or use of such premises for such purpose, it shall be incumbent on such licensed surveyor, so far as his professional connection with such case extends, to see that all conditions prescribed by the said Act or by any by-law for the time being in force thereunder in respect of premises designed for or intended to be applied to such use, are duly fulfilled or provided for.

RULES FOR LICENSED PLUMBERS.

Regulations prescribed by the Municipal Commissioner, with the approval of the Standing Committee, for the guidance of licensed Plumbers, pursuant to Section 356 of the City of Bombay Municipal Act, 1888.

1. It will be incumbent on every licensed plumber, in all matters in which he may be employed, to afford every assistance in his power to the Municipal Commissioner, and other Municipal Officers, in carrying out and enforcing the provisions of the City of Bombay Municipal Act, 1888, and of any by-laws and orders for the time being in force under the same.

2. Every licensed plumber will, in every case in which he may be employed, be responsible, so far as his employment extends, for due compliance with the provisions of Chapters IX. and X. of the City of Bombay Municipal Act, 1888, and of any by-laws and orders for the time being in force under the said Act, or such of them as may respectively be applicable to the circumstances of the particular case.

3. Every licensed plumber to whom permission is granted under Section 322, clause (A), of the said Act, to open, break up, displace, or take up the soil or pavement of any street will be held personally responsible for due compliance with the provisions of Sections 323, 324 and 325 of the Act and for the payment on demand of any expenses which may be incurred by the Commissioner in restoring the street or pavement, or in enforcing or carrying in to effect any of the said provisions—

Read letter No. 11868, dated 10th instant, from the Acting Municipal Commissioner, to the Secretary, as follows :—

SIR,—I have the honor to draw your attention to Sections 355 and 479 (2) of the Municipal Act, and to request that the Standing Committee be asked to recommend the Corporation to fix the license fee for surveyors and plumbers.

As regards the fee for license to surveyors, it will be seen that it is a new proposal under the new Act, and after careful inquiry into the matter, I think that a fee of Rs. 75 per annum would be a reasonable fee.

As regards the fee for license to plumbers I may mention that a fee of Rs. 10 per annum is the present charge as fixed under the By-laws framed under Acts III of 1872 and IV of 1878. This fee should not be increased, but the Corporation should be recommended to fix the same sum.—I have, &c., F. L. CHARLES, Acting Municipal Commissioner.

The fees were fixed accordingly.

THE PROPOSED UNIVERSITY RESEARCH.

In connection with the offer of Mr. Jamshedji Tata to establish a University Research in India, the Municipal Corporation of Bombay at their Meeting held on 16th August 1900, considered the question of contributing towards the said University when the following discussion took place :—

The Corporation considered letter to the President from the Chairman, Provisional Committee, for the proposed University of Research, dated the 6th July, 1900 :—"On behalf of the Provisional Committee I have the honour to forward, for the information of the Corporation, an opinion obtained from the Honorable the Advocate-General on the question whether the Corporation can legally make a contribution towards the maintenance of the University of Research if the buildings of the University have to be located outside the present Municipal limits. You will observe that the Advocate-General has no doubt that the Corporation can legally vote a grant if it wishes to do so. It appears from the resolutions of February 15, kindly communicated to me by your predecessor, that the Corporation appointed a Committee to advise as to the extent of the assistance to be given to the University. If the Corporation should, at this stage, be able to declare the amount of grant it is prepared to give to the University, such a pronouncement would greatly help the Provisional Committee in the important deliberations in which it is at present engaged."

The Hon. Mr. Mehta proposed that in reference to the letter from the chairman of the provisional committee for the proposed University of Research, and the opinion received from Counsel, the Chairman of the Research University Institute Committee be informed that the Corporation did not think it desirable to arrive at any final determination in the matter till the Research Institute definitely established itself. He said the Corporation would do well to dispose of the matter that evening, because it would not be right to keep waiting the Committee who managed the Research University affair. It was a matter of very great importance, and it was natural that the Committee must themselves be anxious to come to some decision of their own in the matter. He had always been of opinion, and he was glad to see that he had the support of other members in the matter, that the Municipal Act must be read as confined, so far as its operations were concerned to the City of Bombay. As a set off against this argument it was asked how they could legally have voted money for the construction of the Vehar water-works. This, Mr. Mehta submitted, could be explained by the circumstance that special powers were given in the Act for dealing with such

works. It seemed to him that Mr. Lang's opinion, which had been sent to them, confirmed his own contention, and it meant, when read between the lines, that the Corporation could not go beyond the City of Bombay in voting any money for any educational object. It also seemed to him that the only reply that the Corporation could now give to the Chairman of the Research University Committee was that it was not desirable for them to take the responsibility of saying, whether they would help in getting the University established in Bombay or not. That task rested on the Institute Committee itself, and he did not think that it was right for the Corporation to take that burden on their own shoulders. The right course for them to adopt was that they should wait until the Research Institute had taken a definite shape and established itself, and when it established itself in Bombay it would be the time for the Corporation to say what assistance they could give from the Municipal fund to the Institute. Until then it would not be right for them to do anything in the matter. Particularly because their constitutional limits did not allow them to make a promise, which might or might not be fulfilled by the subsequent Corporations. It seemed to him that their own constitutional limitations did not permit them to go beyond the established facts. Taking this view of the matter, he submitted his proposition for the consideration of the meeting.

Mr. Unwalla, in seconding the proposition, said he wished to say that if any person could read the opinion of the Advocate-General between the lines, he would find it out clearly that the Corporation had no power to make a grant under the circumstances stated.

The proposition was agreed to.

THE TOBACCO, SNUFF AND GANJA TAX.

In 1866, the Government of Bombay in its letter to the Government of India (No. 146 General Department) submitting an application from the Bench of Justices, praying that the proceeds of the Tax might be restored to the Municipality, remarked:—"The taxes on Tobacco, Snuff and Ganja, on the other hand, are essentially local ones, and the whole expense of maintaining the Police and Fire Engine Establishment is now defrayed by the Municipality. Under these circumstances I am desired to request His Excellency the Governor General in Council will be pleased to authorise the transfer of these taxes to the Municipality."

In compliance with this application the Government of India in its letter to the Bombay Government No. 3130, of 31st October 1866 said :—

“The Tax on Tobacco and Snuff in Bombay being of the nature of a local tax, the Governor General in Council was pleased to sanction its transfer to the Bombay Municipality; but not the tax on Ganja, which is not local, and the revenue derived from it stands on the same footing as the revenue from opium licenses.”

STERLING CONTRACTS.

The following resolution of the Standing Committee was carried at a Meeting held on 25th January 1895 :—

Proposed by G. W. Roughton, Esq., seconded by Ibrahim Rahimtula, Esq.—

“That the Report of the Standing Committee, on the question of fixing exchange regarding No. 11934. works which are contracted for in sterling, be approved and adopted.

“That the Commissioner be requested to provide in future when the Municipality enter into contracts for works or supplies which are contracted for in sterling, and where the transaction is likely to extend over a considerable period of time, for fixing the necessary exchange forward as far as possible at the time of entering into a contract. That where it is not possible to so fix exchange forward that from time to time during the continuance of the contract, forward exchange be, as far as possible, secured to the greatest possible extent.”

Carried.

THE BOMBAY TRAMWAY COY., QUESTION.

On the 27th September 1899, under his No. 15949 the Commissioner wrote to the Municipal Secretary forwarding certain correspondence on the subject of the conversion of the Tramway in the City to electrical traction.*

The purchase of the Tramway Company formed the subject of a High Court suit and after several hearings judgment was given in favour of the Municipality.

* See Corporation Record for 1899-1900 under date 12th October 1899.

FIRE BRIGADE.

The first attempt that Government made to saddle the Municipality with the cost of maintaining the Fire Brigade was in 1859, but the Commissioners informed Government that they were bound solely by Section 29 of Act 25 of 1858 in their payment of the annual expenses of the Police and that therefore they could not admit the liability of maintaining the Fire Brigade.

History of
the Fire
Brigade.

In 1865 the Fire Brigade was worked in conjunction with the Police. In the beginning of that year the Bench sent Mr. Edington to England at public expense to qualify himself as Captain of the "New Steam Fire Brigade." The Brigade was at that time organised by Major Henderson, formerly Commissioner of Police. Beside six hand engines, the Municipality then possessed the following steam Fire Engines.

The "Roostoom" presented by Hon'ble Rustomji J. Jeejeebhoy.

The "Julbreedha" or "Water Increaser" 2nd size.

The "Londa" or "Torrent" of the 2nd size.

The "Vizwinarra" or "Extinguisher" of the 2nd size.

One was stationed at the Dockyard, one in Dongree, Cooly Street, one at Paidhoni, and one at Kamattipura.

They were horsed by the Omnibus Company who were bound to have a pair of good horses and drivers ready for each engine, day or night, whenever required. The contract price was Rs. 75 per horse per mensem including drivers.

Fire Brigade
taken over by
the Municipa-
lity.

The services of the Officers who were performing joint duties as Police Officers and Fire Brigade Engineers were taken over from 1st April 1887. From that date, the staff is a purely Fire Brigade one, the officers having no Police duties.

The Corporation on the 4th April 1889 appointed a Committee to report on the question of the organization of

the Fire Brigade. This Committee submitted the following report:--

"THE Committee of the Corporation appointed on the 4th April

"That a Committee consisting of the following Gentlemen be appointed to consider and report on the Fire Brigade as to what they consider the best organization, establishment and scale of pay for the Brigade. The Committee to have power to call for Municipal persons and papers and to take professional opinions."

"Major H. O. SELBY, *R.E., *Chairman*; Mr. E. B. CARROLL, Mr. T. BLANEY, Mr. G. COTTON,† KHAN BAHADUR MUNCHERJI C. MURZBAN, Colonel MEREWETHER, R.E., Mr. DOSABHAI FRAMJI, C.S.I."

*Resigned 13th May 1889.

ing the organization of the London and other Fire Brigades, and as to the best means of providing for the protection from fire the various districts of Bombay. The information thus obtained has, in effect, answered the purposes for which the Committee was appointed, inasmuch as the Fire Brigade establishment, provided for in the Budget estimate for the ensuing year, should be amply sufficient to provide for a really efficient and sufficiently numerous and thoroughly equipped Brigade.‡ The cost of the Brigade, as entered in the Budget Estimate for next year, is Rs. 1,50,000, in order to meet which charge the Corporation has imposed the maximum tax leviable under the Municipal Act, namely, $\frac{3}{4}$ per centum on the annual rateable value of property.

As this outlay should be sufficient to place the Brigade in a fairly efficient condition, the Committee cannot submit any further suggestions involving a further increase of expenditure on this head.

They concur, however, with the recommendations which, it is understood, is about to be made to the Corporation by another Committee to the effect that, in order to provide for the efficient training and disciplining of the new force, and to ensure that its operations at fires shall be really efficiently conducted, special means should be taken to engage the services of a first class officer to organize and discipline the Brigade at the outset, a higher salary if necessary than that entered in the schedule (Rs. 500 per mensem) being paid during such period as he may be engaged in the work of organization and training.

BOMBAY, 29th January 1890.

THOMAS BLANEY.
G. MEREWETHER.
E. B. CARROLL.
DOSABHAI FRAMJI.
MUNCHERJI C. MURZBAN.

Report of the Committee of the Corporation appointed to advise on the subject of the organization of the Fire Brigade.

1889, as per margin, whilst regretting that their report has been so long delayed, beg to state that, in the meantime, many enquiries have been made regard-

† Mr. Cotton is temporarily absent from Bombay.

‡ 138 persons in all, including 8 for Superintendence and 6 Engineers.

On 17th February 1890, the Corporation recorded the above report :—

In August 1890, the Municipal Commissioner reported the appointment of Mr. W. Nicholls as Chief of the Fire Brigade. This appointment was made in consonance of Corporation Resolution No. 6521 dated 30th January 1890, sanctioning such an appointment on Rs. 500 a month.

Subsequently an allowance of Rs. 100 a month was allowed this Officer as house rent.

The pay has since been increased.

Number of
Fires.

In the year 1898-9 there were 115 calls to fires, excluding 5 false alarms, of these 70 were extinguished by the Brigade appliances. In the remainder the attendance of the Brigade was not required as the fires were extinguished before the arrival of the Brigade.

The fires of 1898-9 show a decrease of 21 as compared with those of 1897-8 and compared with the average of the past ten years a decrease of 1.

Value of
Property
destroyed or
damaged.

The total value of property damaged by fire was Rs. 23,61,918, showing an increase of Rs. 3,36,451 as compared with 1897.

Quantity of
water used for
extinguishing
fires.

The estimated quantity of water used for extinguishing fires in 1898-9 was 28,77,300 gallons of which 27,20,000 gallons were taken from street mains and the rest from wells and tanks.

FINANCIAL.

Writing of the Account Department, Surgeon Major Pelly, President of the Municipal Commissioners in his report of 1865, states:—"This Department, as already mentioned has not been in a satisfactory state, and though a change of system has been introduced, it does not appear, even now, to be as perfect as there is every reason to hope it soon will be. Until very recently the accounts were kept according to a form laid down by the late Auditor, and simply showed the sums which were received or expended during each year, or any part thereof.

"If however (as Mr. Maidment states) 'Government or the Commissioners should wish to ascertain the true state of the whole affairs of the Municipality, or of any branch thereof *i.e.*, the Assets including outstanding liabilities, live and dead stock, and profit and loss, or of what the money in the Bank is composed, &c., the system would fail to give the information, and would involve very considerable labour in gleaming it'."

Continuing Major Pelly states.—"The only account books kept in the clerk's office were the bi-monthly cash books, Receipts, Ledger, Disbursement Ledger, Account Current with the Bombay Bank and the register of stores in charge of different officers. It is needless to enter into all the shortcomings of this system of keeping the accounts, from which the quarterly and annual statements for the Justices and Government were framed : one or two examples may however be cited.

"These returns could not be sent in until many months after they were due, and even then, they were by no means to be depended upon. On looking over the Annual return for 1863, I found a sum of upwards of three lakhs of rupees which was said to have been paid to the Main Drainage fund, but of which sum not one anna had been paid.

"In the Statement of Receipts &c., for 1864 it is shown that there was a balance on 31st December of Rs. 84,844 in favour of this fund. This sum is however purely fictitious. It is based upon the equally groundless statement that we had Rs. 1,27,052 as balance in hand on the 31st December 1863. But if the above mentioned item due to the Drainage Fund, is deducted, it will be seen that we were considerably in debt on the 31st December 1863, and that if we set aside the supposed balance on that day, and take merely actual receipts and actual expenditure for 1864, the latter exceeds the former by upwards of Rs. 40,000.

"It may however be stated that as far as can at present be ascertained, the sum of Rs. 9,05,601-5-5 entered in the above account as 'unadjusted advances and balances' is in reality money paid for work actually performed. That is to say, when a contractor applies for an advance, his work is *measured and* he is paid the value minus 10 per cent. which is kept as a guarantee of future faith. All sums so paid, though within the real value of good work performed, are entered as 'advances' until such time as the whole of the contract is finished and the work being measured up and approved, a final payment of all balances due is made. Upon this system, however, it was impossible to ascertain how we stood with regard not only to each work, but to works in general as we knew not, without weeding through almost endless accounts how far we had to look back, nor could we at once point out when any particular contract account was closed."

Again the same writer says:—"The Accounts and other Departments being in such an unsatisfactory state, it can scarcely be supposed that the Auditor can be as efficient a check upon expenditure as he otherwise might be."

The following Government Resolution on the finances of the Municipality was issued :—

BOMAY CASTLE 16th November 1871.

Resolution :—The Right Hon'ble the Governor in Council has received the explanation submitted by Mr. Crawford and Mr. Maidment in reply to the representations made by the Committee presided over by Mr. Hope, with reference to the financial condition of the Bombay Municipality and the efficiency of the action of the Controller of Municipal Accounts, and is constrained

Municipal
Finance. Go-
vernment
censure
thereon.

to express his surprise and displeasure at the state of affairs which has been brought to light, and at the grave irregularities and other acts of a wholly indefensible character which have been confirmedly admitted.

2. H. E. in Council fully recognises the ability, zeal, and energy displayed by Mr. Crawford for the six years during which he has held the post of Municipal Commissioner in Bombay and the great improvements which have been effected during that time in the state of the city and in all points connected with the health and material well being of its inhabitants. That much good work has been done of a character which will be permanent, and which will render future progress comparatively easy may be readily admitted; but while acknowledging to the fullest extent the benefits which have been realised during Mr. Crawford's tenure of office as well as the difficulties with which he has had to contend, in consequence of his entering upon his duties with an imperfect knowledge of the financial condition of the estate which he was called upon to administer, and also in consequence of the inadequacy of the means supplied to him in 1869 to put Municipal affairs on a sound footing, H. E. in Council cannot shut his eyes to the extreme improvidence and recklessness of many of his proceedings and to the culpable disregard exhibited by him to the restraints incidental to his position as the custodian and administrator of public property of great value, and the dispenser of large public revenues. With reference more especially to the loan obtained by the Municipal Commissioner with the cognisance of the Controller from the Bank of Bombay in October 1870, on the security of the promissory notes which belonged to the sinking fund required to be reserved for the repayment of the House Rate and Market Loans, Mr. Crawford if he had considered for a moment, must have been aware that Government could under no circumstances have sanctioned an act which was a direct evasion of the Law and has been correctly characterised by the Committee as a breach of faith with the public creditor. Mr. Crawford's state of health which rendered his further stay in India dangerous to his life has compelled him to resign this appointment and to proceed to Europe, and this circumstance has relieved His Excellency from the necessity of formally directing his removal from an office in which, notwithstanding his past good services and many eminent qualities, it would have been impossible to retain him with a due regard for the public interest.

Government
censure on the
Municipal
Commissioner.

3. The Controller of Municipal Accounts, Mr. Maidment has admittedly failed to discharge a most important duty for the right performance of which he was specially appointed and this after the precise character of his functions and responsibility had been defined and pointed out to him by Government Resolution No. 137 dated 20th January 1868. The plea put forward in his behalf is that he acted under the pressure placed

Government
Censure on the
Controller of
Municipal ac-
counts.

upon him by the Municipal Commissioner, but this cannot be admitted as an excuse for a plain and palpable breach of duty, though it may be looked upon as an extenuating circumstance in determining the penalty to be awarded. Mr. Maidment has tendered his resignation of his office of Controller, an offer which would have been at once accepted, if the exigencies of the situation did not require the retention of his services, on public grounds, for a short time longer. The Committee have borne testimony to the improvements which have been effected in Municipal book keeping under the superintendence of Mr. Maidment, and to the generally satisfactory condition of the accounts kept by him. It will depend on the further disclosures which may be made, and in the manner in which he may discharge the subordinate duties of Municipal Accountant, which it is proposed temporarily to confide in him, pending the amendment of the Municipal constitution, whether he will be retained in the service of Government, and provided with suitable employment on the final severance of his connection with the Municipality.

4. In reviewing the present financial condition of the Municipality H. E. in Council inclines to the conclusion that the picture drawn by Mr. Hope's Committee represents the position of the Corporation in the most unfavourable aspect. In calculating the funds which were necessary to place the affairs of the Corporation upon a sound and in good working order without selling any portion of the real property vested in the Municipality, the Committee were right in not taking into account the saleable value of this property; but in forming a secret estimate of the financial situation, the fact must be borne in mind that a large portion of the Municipal expenditure has been invested in immoveable property in the shape of Markets, Slaughter Houses, Vehar Water Works, Lands &c., which return a large income and form, irrespective of the loans raised upon these properties, a very valuable and productive estate. Government is not at present in a position to declare how far the alterations which Mr. Crawford has put forward in substitution of the figures given in the Committee's statement of liabilities, may be safely accepted; and on this point there must be further enquiry and report. It would seem evident, however, that to meet all known debts and obligations, and to give the Municipality a working cash balance of not less than Rs. 2,50,000 to start with, a sum of Rs. 15 Lakhs will be necessary; and an application will be made to the Government of India to obtain this sum on loan from the State; or if this concession cannot be made, by the exercise of the powers of borrowing possessed by the Municipality, on assignment of revenue which may be made available by a more economical management of the Municipal estate and judicious retrenchments. H. E. in Council does not consider it necessary to replace the sums which have been diverted from the House Rate Loan to the Markets, which sums were originally reserved for Drainage and Overbridges. The

item which should have been at the credit of overbridges represents a net saving, and any reserve fund for drainage does not for the present appear to be needed. H. E. in Council therefore, if the measure be approved of by the Justices, will be prepared to take the necessary steps to obtain the sanction of the Legislature to the appropriation of the sum of Rs 4,76,469 mentioned in paragraphs 6 and 21 of the Committee's Report, to the Markets.

5. Government have already advanced to the Municipality a sum of Rs. 2 lakhs to enable the Corporation to continue current payments and to prevent the evil consequences which must have resulted from the sudden cessation of the payment of the establishment of the Health Department and the Police, and it is proposed to give the Corporation such support as may be in its power to enable it to obtain the necessary funds to restore order to its finances. H. E. in Council has caused a Bill to be prepared which will shortly be published for the purpose of effecting such alterations in the Municipal Constitution as appear to him to be expedient in consequence of recent experience. This Bill will not become law without the fullest discussion and without giving the most ample opportunity for the expression of public opinion and it is not proposed that it should come into operation till June next. In the meanwhile it is intended that an Officer selected for his financial ability and capacity to deal with large undertakings, shall be appointed to act as Municipal Commissioner under the existing law for the purpose of revising Municipal establishment and applying sound principles of economy in all Departments. It will be his duty, on being supplied with the requisite funds to discharge all existing liabilities, and to place affairs on a sound basis and to make such suggestions for the more complete collection of the rates and taxes than has hitherto been accomplished, and for the reform of the Municipal administration on all points. H. E. in Council considers that during this interregnum it would be advisable to abolish the office of Controller and to entrust the entire responsibility which now devolves upon him to the Municipal Commissioner and thus save a portion of the Controller's pay to the Corporation. If the Bench of Justices should concur in this view orders will be given for the preparation of a short Bill repealing those parts of the Municipal Act which render imperative the appointment of a Controller and fix his salary and duties. This measure will be passed through the Legislative Council with as little delay as may be practicable; and until that time Mr. Maidment may continue to officiate as Controller and he can afterwards be retained as Municipal Accountant on such reduced salary as to the Bench of Justices may appear suitable.

6. H. E. in Council will be glad to receive an expression of the views of the Justices on the several point on which their opinions have been invited with as little delay as possible; and as Government has shown by its acts the sincerity of its desire to extend to the Corporation all the material assistance in its power

to extricate the Municipality from the difficulties in which it has become involved, he trusts that the public spirit of the Justices will induce them to co-operate cordially in the efforts which will be made to effect a permanent improvement in the state of Municipal affairs and to provide the City with an administration which while being approved of by Government will command the confidence of the public.

The Account
System.

The account system of the Bombay Municipality was established with the approval of the Bench of Justices in 1866 and after modifications made in 1869 on the suggestion of a Committee of which Mr. Chapman, then Accountant General, was President, was revised in 1871 by Sir Theodore (then Mr.) Hope. Then after further revision by Sir Charles (then Mr.) Ollivant the system now followed was finally approved by the Standing Committee, Section 123 of the Municipal Act directing that "Accounts of the receipts and expenditure of the Corporation shall be kept in such manner and in such forms as the Standing Committee shall from time to time prescribe."

On the 9th October 1889, a Sub-Committee of the Standing Committee reported that after having gone carefully through the appendices to the Commissioner's Administration Report for 1887-88, they could only recommend the omission of the Dead Stock return and of certain unimportant returns in the Engineer's Department.

On the 25th July 1892, Mr. W. L. Harvey, then under Secretary to Government, General Department, in his letter No. 2556 forwarded the following extracts paragraphs 7 and 8 of a letter from the Accountant General, containing certain remarks by that Officer on the account system of the Bombay Municipality as disclosed in the administration Report of the Municipal Commissioner for 1890-91 :—

*Extract paragraphs 7 and 8 of the Accountant General's letter
No. $\frac{Q. A.}{556}$, dated 11th April 1892.*

7. "The accounts, as published in the Administration Report, seem to me so voluminous as to be of comparatively little use, and if my advice were asked, I should certainly suggest that they should be condensed by the adoption of a tabular form and by classifying the Revenue and Expenditure under suitable major, minor and detail heads. There are several items in these published accounts which I find myself at present unable to understand. To begin with the words "including transfers" in

the heading needs explanation, and I note below other items which a somewhat casual scrutiny by my outside Audit Department of the accounts has shown to be open to question.

The entries as profit on account of Building Certificate forms, Repair Certificate forms are probably the sale proceeds of the forms. The *profit* would be the difference between the cost and the proceeds.

Interest and profit on Loan and Reserve Fund investments. Is it correct to regard these items as profit? I understand that the amount shown as "total interest received" is the 2 per cent. on Current Account balances with the Bank and interest on Government paper. This amount should, I think, be taken to reduce the charge for interest at 4 and 5 per cent. paid by the Municipality on the unspent Loan Funds in deposit or invested in Government or other securities, the result in that case would probably show a loss.

Nominal Profit on Stock adjusted Rs. 72,175-7-0. I do not understand what is meant by "Nominal Profit," unless it be the difference between the cost of stores and the amount at which charged to Departments and works when issued or used.

I find the Bank of Bombay credited and debited with the Cash Deposit Account of Rs. 25,12,390-2-8, but I cannot trace the other Cash Deposit accounts for Rs. 3,01,432-8-0. Then there are further Deposit accounts with the Bank of Bombay at pages 140 and 141. These may be the transactions as they passed through the accounts during the year, but the entries as they appear are unintelligible to me; besides I cannot find from this account the position of any Deposit or Investment account. The account opens and closes with a "cash balance," which must be considerably below the

Opening balance	Rs. 3,09,274-15-8.	actual balances of funds with the Corporation.
Closing balance	Rs. 3,03,157-11-7.	I cannot find it stated what the balances are, but I notice at page 140 that besides a large investment in Government paper, there was

Rs. 12,60,791 in cash deposited with the Bank of Bombay.

Some time ago the Municipality stated that the average balance of Loan Funds alone amounted to over 18 lakhs, whereas this account gives the impression that at the end of the year the Municipality had only Rs. 3,03,157.

In statement No. 4, the net premium received on loans raised from the public is included in the Schedule of liabilities. These amounts are not repayable, they form items of profit, and should, therefore, be treated as assets, for the same reason the "Commission on private works is not a liability but an asset.

8. The Act required the Auditors to submit a report upon the accounts, but the report submitted by them is, I think, needlessly lengthy, occupying 50 printed pages and conveying much information already furnished by the Commissioner's Report, the Financial Statements and the Departmental Reports. It should, in my opinion, be sufficient for the Auditors to certify that the Financial statements, published with the Administration Report, are correct, and that they have verified the balances of cash and Government securities belonging to or deposited with the Corporation, by an examination of the Bank Pass Books, Safe custody receipts and the cash and Government Promissory Notes in the office. Any irregularities observed in the course of audit should also be brought to notice. If these points were attended to nothing more would be necessary. I do not find it clearly stated that any verification of balances was made by the Auditors at the close of the year—a most important portion of their duty."

The letter was referred to the Municipal Commissioner who reported as under.—

No. 11619 OF 1892-93.

BOMBAY, 27th August 1892.

TO THE MUNICIPAL SECRETARY.

MEMORANDUM.—

The Commissioner has the honour to forward to the Standing Committee a very full and careful memorandum † by the Chief Accountant on the Accountant-General's comments embodied in the statement forwarded to the Corporation under Government letter No. 2556 of 25th ultimo.

The Accountant-General commences by criticising the Chief Accountant's Account Statement No. 3, which will be found at pages 111-143 of the last Administration Report. There is no doubt that it is an exceedingly full and minute one, but the fault, which is almost invariably found with accounts and statements prepared by the Chief Accountant and Commissioner in the Corporation and Standing Committee, is that they do not give enough information, not that they give too much. The several items of account comprised in the statement referred to are arranged under major, minor and detail heads; as to the suitability of the classification, the Commissioner will say nothing, and they could no doubt be greatly condensed; but the object of their excessive minuteness of detail is to convey as much information as possible primarily to members of the Corporation who are familiar with most of the causes of expenditure and sources of revenue, though they may not be readily intelligible to those who are not. The entry under Public Health Department Disbursements "VI.—New Live and Rolling Stock" (page 115), would, no doubt, be incomprehensible to many people, but the members of the Corporation are at once aware that it means more bullocks and carts. Whether this statement is too full or not is a question not of accounts but of administration.

† See pages 275 to 285. Corporation Record Vol. XVI Part II.

Turning to the items specially criticized, the first has been sufficiently dealt with by the Chief Accountant. As regards the 2nd—"Interest and Profit on Loan and Reserve Fund Investments"—the Chief Accountant has explained the facts, and the Commissioner cannot think that the course suggested by the Accountant-General would be either as convenient or equally in accordance with law with that now adopted. The law requires that interest and profit arising out of investments made by the Corporation shall be credited to the Municipal Fund. And this is what is done. To credit either the one or the other, not to the Municipal Fund but to the interest charges on the particular loan from which it has accrued, would hardly be consonant with the letter of the law, while it would have the inconvenient consequence that an annual provision of interest and sinking fund on loans would become an uncertain factor, rising and falling with the probabilities, which cannot be accurately foreseen, of premia and interest. It may be added that in the Port Trust accounts, which are audited by the Accountant-General, interest and profit on investments and loans are treated substantially in the same way as here, and in the account of both the Provincial and Imperial Governments, interest on loans is also credited to general revenues. (*Vide* Port Trust Administration Report for 1890-91, pages 18 and 20; *Government Gazette* for 25th instant, page 906.) The remaining heads of criticism have been dealt with by the Chief Accountant as fully as I could deal with them, and I will therefore pass them by.

H. A. ACWORTH,
Commissioner.

The Standing Committee thereupon framed a resolution in terms of the Commissioner's letter and the Chief Accountant's remarks which was submitted to the Corporation and the latter body decided to address Government in terms thereof.

Subsequently the following communication was received from Government :—

No. 1469 of 1893.

GENERAL DEPARTMENT,
BOMBAY CASTLE, 27th April 1893.

To THOMAS BLANEY, Esq., J.P.,

President, Municipal Corporation, Bombay.

SIR,—I am directed to forward herewith copies of letter from the Accountant-General, No. OA—34922, dated 30th March 1893, and accompaniments, on the question of amending the financial statements published in the Annual Administration Report of the Municipal Commissioner for the City of Bombay, and to state

that Government have no doubt that the Corporation will give careful consideration to the Accountant General's criticisms and recommendations.—I have, &c.,

W. L. HARVEY,
Under-Secretary to Government.

No. OA.—34922 of 1893

OUTSIDE AUDIT DEPARTMENT,
BOMBAY, 30th March 1893.

TO THE CHIEF SECRETARY TO GOVERNMENT,
Financial Department, Bombay.

SIR,—I have the honour to return the papers received with your memorandum No. 94, dated 10th January 1893, on the subject of the financial statements published in the Bombay Municipal Administration Report for 1890-91. Some of the difficulties to which I referred in my letter of April last have been explained in the letter of the President of the Corporation and the memo. of the Chief Accountant, but I am still of the opinion that my main contentions were just.

2. I see that I misunderstood the entry regarding the profit upon Building and Repair Certificates, but the practice of the Municipal Account Office in such matters does not appear to be uniform, as the full cost of Town-duty Receipt Forms and Tender Forms is entered at pages 114 and 118. It hardly seems worth while to keep a Profit and Loss Account for a few printed forms. It would, I think, be sufficient to keep a Stock Account charging expenditure as a municipal charge and treating recoveries as revenue.

3. There is also an apparent want of uniformity in the matter of interest upon Deposits and Investments, which are not always credited as revenue but are sometimes deducted from expenditure, as at page 133, where the item of Rs. 12,890-2-8 is so deducted. I am still disposed to think that interest derived from investments of money which does not belong to any special fund, such as the Sinking Fund, ought not to be treated as revenue. But even taking it as a receipt, a comparison with interest payments can easily be made as will be seen from the Statement A, which accompanies this letter, and to which I shall refer later on.

4. The involved procedure for adjusting the nominal profit on Stock seems to me quite unnecessary. Stock is either purchased for re-issue as in the case of similar or workshop materials, or not for re-issue as in the case of furniture. In the former case it would be simpler to debit the stock account at once, dispensing with the debit entry as expenditure and the credit entry to surplus receipts. In the latter case the price of the Stock might well be charged as expenditure at once.

This is the Government system, and it is found convenient. The head of the Department served certifies each year that the Stock on his Stock Account is in his possession, or accounts for losses.

5. The arguments advanced in support of the practice of showing premia upon loans as part of the Municipal liabilities appear to me to be unsound. These premia are not due for repayment to debenture holders, and can, without inconvenience, be treated as revenue. It is true that in the Port Trust Accounts the discount on loans is entered as an asset, but the argument that, if this be correct, it is equally correct to treat premia as liabilities, is not a fair one. The procedure adopted by the Port Trustees was approved by the Auditors, because in their case it was a necessity. Their loans were issued at a loss, but the full face value of the debentures had to be brought upon the books as a liability, because the Trustees were bound to repay it. It was inconvenient, and in fact impossible to charge off the discount at once as expenditure, because it would then have been impossible to apply the revenue of the year in the manner that the Trustees were required to apply it. It was accordingly arranged, to meet this difficulty, that the discount should be held under a Suspense Account, which should be cleared by yearly appropriations from revenue, credited to a Sinking Fund. No similar difficulty exists in the case of the Municipality, and I cannot understand for what reason the President of the Corporation assumes that, unless premia are shown as liabilities, they cannot be utilised for expenditure on works. No analogy can be drawn from the Reserve Funds of Banks and Companies, as these are created by the transfer of a certain portion of the profits of each year to the Reserve Fund.

6. The Chief Accountant's statement in paragraph 4 of his memo. that uncollected revenue is not brought to account seems opposed to his statement made in paragraph 23 and to the accounts. Thus at pages 138 and 139, Rs. 2,114-2-10 are credited and Rs. 8-8-2 debited as commission upon private works. A further debit appears at page 129 for "Loss on account of Private-works, irrecoverable bills sanctioned to be written off, Rs. 6,649-10-6." The statement of Liabilities shows a balance of Rs. 5,289-6-1 as the receipts for these works, whereas the write-off entry leads to the conclusion that there was a net loss. The loss on account of irrecoverable bills has not apparently been deducted from the credits but shown as part of the charges.

7. The main contention in my previous letter was that the statements published are too voluminous, and that the figures should be condensed by being shown under suitable major, minor, and detailed heads. The Chief Accountant describes the way in which the present forms came into existence, but little advantage will be gained by discussing their history. The question rather

is, whether they are suitable for the purpose for which they are intended, which is the information of the tax-payer, or whether changes will make them more suitable for that purpose. I have advocated, and still advocate, a change on the ground that the statements are not complete, simple, clear or concise. They are not only incomplete, but also so difficult of comprehension as to have completely puzzled experienced Accountants in my office, and I have had to apply for information from the Chief Accounts Office, which has been most readily afforded. With the assistance of information thus furnished, a set of statements* has been prepared, which I now submit for consideration, venturing to hope that they will be considered not only by Government, but also by the Corporation to be better suited to accompany the Administration Report than those which I have been asked to criticise.

8. These specimen statements (which have been filled up for 1890-91 as far as the available information has permitted) are more complete than those which have been published; in that they included the transactions of the School Fund and the payments made to the Sinking Fund and the Municipal Building Fire Insurance Fund, which are altogether omitted from the Statements published in the Administration Report. It is, no doubt, convenient to keep a separate account of the School Fund, but Section 120 of the Municipal Act requires that the part of Municipal revenues spent on education shall be credited to a separate heading in the Municipal Accounts. It therefore seems necessary to incorporate these transactions in the general accounts at least once a year. Information as to how the Educational grant was spent is given in the Municipal Commissioner's report at page 37, but it finds a place neither in Statement No. 3, where by law it should be, nor in the Joint-School Committee's report, where the public would probably next look for it. The law also requires that, when a Sinking Fund is created, it shall be set apart and used only for repayment of loans. I do not for a moment imagine that sums due to the Sinking Fund have been misapplied, but the published accounts do not make it clear that they have been properly applied. In 1890-91 the Municipality paid Rs. 37,775 to the Sinking Fund and received Rs. 12,402 as interest due to it. The latter sum has been entered as ordinary revenue, and the former does not appear as a separate item (because there is no separate head under which it could have been taken), but is included in the item of Rs. 1,51,229-9-9 at page 141 of the report. The Corporation must naturally desire to make the transactions with regard to this Fund as clear as possible. Its position is explained at page 12 of the Municipal Commissioner's report, but it ought also, I think, to be exhibited in the Financial Statements.

* See Corporation Record.

9. The Statements which have been drawn up in my office have, for conciseness and simplicity, been condensed from the Statements as published, the figures being re-arranged as far as the information available has permitted. Statement A shows, in accordance with Sections 118, 120 and 121 of the Act, the Municipal revenue and expenditure under major heads only, and gives the surpluses of the year in the General, Water-works, and School Funds. Statement B shows the same expenditure under major, minor and detailed heads, and also includes those transactions of the year which do not affect Municipal revenue, such as Debt, Deposit and Advances. As Appendices to Statement B, there are two Schedules only partially filled in for (a) New works constructed out of revenue and (b) Loan works. As it seems to me desirable that the actual sums spent shall be capable of comparison with the sanctioned grants, the details are given separately. These Schedules also show the balances of loans which are unexpended, and will, I consider, serve a very useful purpose.

10. No balance sheet accompanies the report for 1890-91, though such a statement is, in my opinion, essential. Such a balance sheet is to be found in Statement C, which has been drawn up on the supposition that the figures in the Assets and Liabilities Statement of the report are correct. Necessary additions have been made and the figures have been re-arranged so as to show the true position of the Municipality. The note to the closing debit entry refers the tax-payer to the works, which represent the money spent in excess of the ordinary revenue of past years.

11. The fuller examination of the accounts, which has been made since the present reference from Government was received, has disclosed some other matters which appear open to criticism, but I shall not refer to them. If the forms of statement which I propose are approved and adopted, the mistakes which seem to me to have been committed will disappear. A considerable amount of pains has been taken to show as clearly as possible what seems to my office the most appropriate manner of representing to the public the Municipal transactions of the year, and I trust that I have not given cause for the Corporation to imagine that the work has been carried out in an unfriendly spirit. My sole desire has been to give them the benefit of the experience of a Department of Government which has a large experience with public accounts.—I have, &c.,

A. F. COX,
Accountant-General.

Nothing however appears to have been done in the matter of changing the system of Accounts.

Contract.

The mode in which contracts were let in 1850 materially differed from the present system. Then the plans and estimates of all new works were in the first instance approved by the Board and Bench and forwarded to Government for sanction. On the sanction of Government being received, an advertisement was inserted in the *Government Gazette* to the effect that verbal tenders for their execution will be received on the day and hour specified, at the office of the Superintendent of Repairs, where the plans and estimates were kept for public inspection during the interim. At the time fixed, there was generally an attendance of about 20 contractors. The work was then put to Dutch auction, at the amount of the Engineer's estimate, and was ultimately knocked down to the lowest bidder. The names of all competitors and the amounts of the three lowest tenders, were recorded, a copy of such record being forwarded to the Board, with a recommendation that the contract should be given to the lowest bidder (if unobjectionable) and on confirmation by the Board the work was commenced. Under the Municipal Act III of 1888 at present in force (1900) contracts are advertised in the local newspapers English and Vernacular, not in the *Government Gazette*, and tenders in writing are received by the Municipal Commissioner, each tenderer has to deposit a certain amount of money for the faithful performance of his contract. The lowest tender is usually accepted, if for an amount of Rs. 500 by the Commissioner, if for an amount of Rs. 5,000 and under by the Commissioner to be reported to the Standing Committee and above that amount with the approval of the Standing Committee.

The Standing Committee on 4th October 1900 considered the following :—

Memorandum from the Commissioner, No. 16472, dated the 27th September 1900—Forwarding, for sanction to the proposal therein made, copy of a letter to his address,

No. 4068, dated the 26th July 1900, from the Chief Accountant, as follows :—

“ I have the honour to address you in reference to the system that at present exists in this department in booking expenditure incurred against budget grants. The practice is to introduce the outlay into the main accounts through the day books only when the cheque has actually been handed over to the party to whom it is due. In my subsidiary books, however, recording the progress of outlay against budget grants, *i.e.*, in the tabulations and registers of works generally, the amount of a bill is posted as soon as it is passed for payment. The result is that up to any specified period the ledgers of my office show the disbursements as actually made, whereas my tabulations and registers of works generally show the liabilities incurred and passed for payment though not finally discharged plus the payments actually made. 2. Apart from the fact that there are thus introduced into my books two sets of figures for the same period, making the reconciliation of my subsidiary and main books almost an impossibility, the system of introducing into the main accounts only payments actually made, thus excluding all outlay for which we have admitted liability, is in my opinion a vicious one. The weekly accounts never represent our actual outlay and inferences drawn from the figures therein booked are apt to be fallacious ; grants have to be renewed which would not otherwise be necessary, and as pointed out differences occur in the books kept in my own office. The system is one which has no warrant in either Government or Commercial accounting and I do not see why we should continue to follow it. 3. What I would suggest to remedy the existing deficiency is to debit the amount of any bill passed for payment to the service head concerned at once through the day book, credit being at the same time afforded to a head ‘ Cheques payable,’ for all payments to be made by cheque. When the payments are actually made the head ‘ Cheques payable’ will be debited. The head ‘ Cheques payable’ is not *absolutely* necessary, but it is introduced as a precautionary measure to enable the Auditors and the Secretary who look after the post-audit work to see that all expenditure already brought against a service head is duly supported by a subsequent actual disbursement by cheque. 4. If you approve of my proposals, I shall be glad if you will get the Standing Committee’s sanction thereto under section 123 of Act, III of 1888.”

A change
in existing
system.

Resolved : “ That with reference to the Commissioner’s memorandum No. 16472, dated the 27th September 1900, the Standing Committee approve, under section 123 of the Municipal Act, III of 1888, of the change proposed by the Chief Accountant in the existing system of booking expenditure incurred against budget grants.”

*Statement showing the estimated income and expenditure
of the Municipality from the year 1867.*

Years.					Estimated Income.	Estimated Expenditure.
					Rs.	Rs.
1867	...	...	...	...	29,80,250	30,06,167
1868	...	...	...	...	33,15,618	47,46,097
1869	...	...	...	...	33,18,833	31,84,413
1870	...	...	...	...	34,48,593	34,38,294
1871	...	...	...	...	35,11,115	34,10,235
1872	...	...	...	...	30,54,729	30,48,379
1873	...	...	...	...	35,00,731	32,88,958
1874	...	...	...	...	33,74,731	21,42,272
1875	...	...	...	...	32,79,057	31,29,057
1876	...	...	...	...	31,06,877	29,85,881
1877	...	...	...	...	30,84,000	29,50,000
1878	...	...	...	...	32,82,500	32,32,500
1879	...	...	...	...	36,06,850	31,56,850
1880	...	...	...	...	37,17,377	31,77,377
1881	...	...	...	...	39,90,250	34,76,255
1882-3	...	...	...	...	38,12,650	33,18,891
1883-4	...	...	...	...	39,47,988	38,03,588
1884-5	...	...	...	...	41,40,550	37,23,045
1885-6	...	...	...	...	43,81,750	42,81,750
1886-7	...	...	...	...	43,95,950	46,12,950
					3,17,000 for Tansa.	
1887-8	...	...	...	...	49,57,050	48,57,050
1888-9	...	...	...	...	51,89,750	52,32,250
1889-90	...	...	...	...	53,70,200	52,24,564
1890-91	...	...	...	...	60,47,300	59,40,194
1891-92	...	...	...	...	63,39,675	61,58,371
1892-93	...	...	...	...	75,50,317	66,32,978
1893-94	...	...	...	...	77,45,820	64,30,488
1894-95	...	...	...	...	80,24,500	62,57,211
1895-96	...	...	...	...	80,59,300	63,55,166
1896-97	...	...	...	...	85,55,700	85,55,700
1897-98	...	...	...	...	88,15,100	69,19,495
1898-99	...	...	...	...	81,27,600	72,54,300
1899-1900	...	...	...	...	88,15,000	79,49,400
1900-1901	...	...	...	...	99,20,000	84,92,094

In 1866	The House rate was	6 %	Police Rate	3 %	and Lighting	1 %
" 1876	" " "	5 "	" " "	2 "	" "	2 "
" 1886	The consolidated rate was	8 "	plus	$\frac{3}{4}$ "	for Tansa.	
" 1896	" " "	8 "	" "	$\frac{1}{2}$ "	for Fire Brigade.	
" 1900-1901	" " "	12 "	" "	$\frac{1}{2}$ "	" "	

PRESIDENCY BANK BILL.

The letter * from Government on the Presidency Bank Bill was on 11th January 1900 referred to a Committee for report. The Committee reported † thereon on 23rd of the same which report the Corporation adopted and addressed Government in terms thereof.

SHORT PERIOD LOANS FROM THE PUBLIC.

The report ‡ of the Committee on the proposal to receive short period and other Loans from the general public was approved and adopted by the Corporation at their meeting held on 23rd April 1900, and Government was addressed accordingly. Government replied under letter No. 3577 dated 9th July 1900 as under :—

“ I am directed to acknowledge the receipt of your letter No. 1154, dated the 28th April 1900, stating that Municipal financing will be greatly facilitated and temporary monetary difficulties will be more easily met if the Municipality can obtain from Government powers similar to those granted to the London County Council under Statute 60 and 61, Vic. C. 220.

“ 2. In reply, I am directed to suggest that it might be expedient for the corporation to ascertain from other Presidency Municipalities whether any action has been taken by them in the same direction or is thought desirable and feasible. Should the replies received be encouraging, His Excellency the Governor in Council will be glad to consider the proposals of the Corporation, but it will in his opinion be convenient that they should be submitted in the form of a draft Bill on which discussion can be invited.”

This letter was referred to a Committee for report.

GARDENS.

The history of the Victoria Gardens is tolerably well known to the citizens of Bombay. The Bombay Agricultural Society originally possessed gardens at Sewri. These gardens which were required by the Municipality to provide a Christian cemetery on the closing of the Burial

Victoria
Gardens.

* See Corporation Proceedings dated 11th January 1900.

† See Corporation Proceedings dated 1st February 1900.

‡ See proceedings of the Corporation dated 23rd April 1900.

grounds at Sonapore and Colaba, were exchanged with the Agri Horticultural Society for the Mount Estate granted by Government for the purpose. The deeds vesting the Mount Estate in the Agri Horticultural Society, were, however, never completed, and the Society, having got considerably into debt, practically ceased to exist. Under these circumstances the Municipality was obliged, on account of certain considerations to discharge the debts of the Society, and Government agreed to make the Municipality a present of the Mount Estate, for a public garden, except the spot on which the Victoria Museum stands and the space immediately surrounding it.

At the commencement of 1873, Dr. Gray, Honorary Secretary of the Agri Horticultural Society was in charge of the gardens. He resigned his post early in the year, and Mr. G. W. Derry was good enough to assume temporary charge, pending the formation of the new Corporation. Towards the end of 1873, Colonel Moyle was appointed Superintendent of the Gardens on a salary of Rs. 150 a month, with the use of the house. He built a great portion of the boundary wall of the gardens and considerably improved the drainage besides making the gardens very gay and attractive in the early months of 1874.

Mr. Ravenscroft, the acting Municipal Commissioner, was however much dissatisfied with Colonel Moyle's work. He had expended very nearly the whole sum at his disposal in the earlier months of the year leaving nothing to pay for a large consignment of seeds which had been ordered out from England and not sufficient to maintain the garden in decent order during the monsoon and Autumn months. At the end of the year Colonel Moyle was not reappointed. He was succeeded by Mr. Lock who did a great deal for the gardens.

In 1875, Mr. R. MacEwen, Assistant Engineer was placed in charge of the gardens in addition to his own duties. He retired on pension and was succeeded by Mr. Carstensen, who died. At present Mr. Mahaluxmilla holds the appointment.

The Corporation on 18th June 1880, adopted the following amendment to the Bylaws:—

“The Victoria and other Municipal Gardens within the city of Bombay shall be open to the public daily from sun rise to 7 p. m. or to 10 p. m. on moonlight nights,

or at such hour as shall be stated upon notice boards to be daily placed at each entrance to the gardens : provided that the Municipal Commissioner shall have power to close any or all such Gardens for the purpose of carrying out therein any special work connected therewith. Previous notice of such closing shall be given in at least one English and one Vernacular local newspaper. The public shall have free access to the Gardens except on special occasions when the Town Council with the sanction of Government may reserve them for public Exhibitions and amusements and a fee may be charged for admission. In all such cases previous notice should be given by the Municipal Commissioner in at least one English and one Vernacular paper. Visitors to the Gardens, shall not pluck, injure, or touch any fruit, flowers, trees, plants &c. within the Garden or in any way interfere with the arrangement of any flower bed, plantation, tree, plant, shrub, flower, &c., and they must confine themselves to such paths and other places as are set apart for promenading."

On the 20th February 1889 the Municipal Commissioner (Mr. E. C. K. Ollivant) in his * letter No. 19645 submitted a scheme for the improvement of the Victoria Gardens and the Zoological collection therein. The suggestion was made to invite the zoological Committee of the Natural History Society to constitute themselves Honorary visitors and to pay periodical visits to the Gardens and record their remarks and suggestions in a book to be kept for that purpose.

The Standing Committee submitted the proposal to the Corporation for their consideration.

The Corporation on the 17th June 1889, approved of the Municipal Commissioner's proposals and requested him to prepare an estimate of the various improvements suggested and for the annual expenditure necessary for maintaining the zoological collection when such improvements are carried out.

The levy of admission fees to the Victoria Gardens was after a short time abandoned and the gardens are at present open for the free use of the public.

* See Page 571, S. C. Record for 1888-89.

The following proposal to levy admission fees was submitted *viz*:—

Tuesday, Thursday and Saturday up to 4 P. M.	1 anna.
Tuesday and Thursday after 4 P. M.	2 annas.
Saturday „ „ ...	4 „

The Northbrook Garden.

In contemplation of the visit of H. E. the Right Hon'ble Lord Northbrook, G. M. S. I. Viceroy and Governor-General of India, a Special Committee of the Bench of Justices was appointed on the 9th October 1872 for the purpose of drawing up and presenting in the name of the Bench, a loyal address to His Excellency by Her Majesty's Justices of the Peace on behalf of the City of Bombay. In order to give effect to the proposals made by this Special Committee, the then Sheriff of Bombay, Mr. Dossabhoy Framji convened a Public Meeting of the inhabitants of this city in the Town Hall on the 4th November following when amongst other resolutions, it was unanimously agreed that a voluntary subscription list be opened under the name of the "Governor-General Reception Fund" and that the application of this Fund be committed to the Special Committee with a view to the formation of a Public Garden, to be called the "Northbrook Garden" on such site in the Native Town as should be decided on by the Committee, in commemoration of the visit to Bombay of the Viceroy of India. The subscriptions amounted to Rs. 25,336. On 5th September 1873, the Municipal Commissioner was requested to take charge of this fund and to carry out the scheme. A site at the Junction of Grant Road and Trimbuck Parashram Street was selected. Government gave the grant on the condition that the Corporation would maintain the Garden. This garden is still in existence.

The University Garden was designed by Mr. M. C. Murzban C. I. E. when he was Executive Engineer Presidency, and subsequently improved by the Hon'ble Mr. Birdwood. The Elphinstone Circle Garden was constructed within a month on the occasion of the visit of the H. R. H. the Duke of Edinburgh.

The Garden at Bazaar Gate was laid out by the Esplanade Fee Fund Committee.

The other Gardens were laid out at the expense of the Bombay Municipality.

Nine public gardens were maintained during the 1899-1900. Nearly 11 lakhs of people visited the Victoria Gardens or about 3 lakhs more than in the previous year, the figure now nearly coming up to the average of the years preceding the advent of the Plague. Several important improvements were made in the Victoria Gardens and the other gardens were kept up in their usual condition. The total expenditure on gardens was Rs. 62,083, of which Rs. 53,716 were spent on the Victoria Gardens.

Public
Gardens.

The following public gardens are maintained by the Municipality :—

- (a) Victoria Gardens.
- (b) Elphinstone Circle Garden.
- (c) Northbrook Garden.
- (d) Malabar Hill Garden.
- (e) Bazaar Gate Garden.
- (f) Falkland Road Garden.
- (g) Dicks Tank Garden.
- (h) Municipal Office Garden.
- (i) Sir Cowasji Jehangir Garden.

VICTORIA AND ALBERT MUSEUM.

Some additions were made to various sections of the Museum, and the usual care was bestowed upon the preservation of the specimens in the various sections.

The Museum was open to the public for 313 days during 1899-1900, and the total number of visitors was 683,277 as against 656,840 during the preceding year. The daily average of visitors was 2,182. The number of visitors for the past five years is given below :—

Year.	No. of Visitors.	Daily Average.
1895-96	749,299	2,378
1896-97	584,865	1,874
1897-98	641,506	2,042
1898-99	656,840	2,098
1899-1900	683,277	2,182

DRAINAGE

Mr. H. A. Acworth's book on the Drainage of Bombay contains the whole history of this important subject.

The Corporation Proceedings of 18th January 1900, contains the following reports of Mr. W. Santo Crimp :—

1. Shone system, its actual working in the city.
2. Flushing sewers, including the use of sea Water for the purpose.
3. Electrolized Water.
4. House connections—whether it is possible to reduce the cost of them, and if so, in what way.

Mr. Baldwin Latham's report on the Drainage of Bombay forms part of the Municipal Secretary's Library.

Coal consumption at Love Grove Pumping Station,

From April 1898 to March 1899, about 3,481.18 tons of Coal was consumed, at the Love Grove Pumping Station, and the average number of gallons of sewage pumped during the same period was 364,932,826.

LEASING OF THE MALABAR HILL HANGING GARDENS.

On the 19th April 1900, the Corporation on the motion of Dr. N. N. Katrak, seconded by Mr. K. N. Wadya approved of the acceptance of the arrangement proposed by the City Improvement Trust for the leasing of the Malabar Hill Hanging Gardens on condition that the Trust bears half the legal expenses.

VACCINATION.

The Corporation on 7th December 1899 considered letter from the Commissioner, No. 19571, dated the 31st October 1899 :—

“ The Corporation, under their Resolution No. 924 of the 8th May 1899, approved of the Vaccination Department performing vaccine operations at Bandra once a fortnight on certain conditions.

“ 2. The Sanitary Commissioner for the Government of Bombay has suggested to me that vaccine operations should also be carried on at Kurla, the Municipality of Kurla having agreed to pay to this Municipality a sum of Rs. 100 per annum for doing the work once every three months. He adds ‘ the proposal, if agreed to, will tend to better work in Kurla and

consequent benefit to the City of Bombay, and in addition will lead to the introduction of compulsory vaccination in Kurla, which will add to the benefits conferred.'

"3. It will only be necessary to the Corporation to increase the contingent allowance to the Vaccination Department by Rs. 100.

"4. The Executive Health Officer recommends the acceptance of the proposal, and I submit it for the approval of the Corporation."

Proposed by Karsandas Chabildas, Esq., seconded by D. M. DeSilva, Esq.—

"That the Corporation approve of the arrangement proposed in the Commissioner's letter No. 9069. 19571, dated the 31st October 1899, for the Vaccination Department performing vaccine operations at Kurla once every three months." (7-12-99.)

Carried.

ENGINEER'S DEPARTMENT.

In the year 1810 the following complaint was made of the state of the roads :—

Bad condition of roads.

Bombay to wit. The Jurors of our Lord and King upon their oath present as a public nuisance the state of the roads throughout the Island notwithstanding the late increased taxes for the purpose of putting and keeping them in repair.

GRAND JURY CHAMBER,	}	CHARLES FORBES,
12th May 1810.		Chairman.

G. LAKIN.	J. SHROPUELL.
C. SHUBRICK.	J. H. PELLY.
W. B. CROZIER.	THOMAS REDDOCK.
JOHN WILLIAMS.	J. M. ROBERTSON.
THOMAS TURNER.	W. MAKINTOSH.
N. TUCKER.	J. H. CRAWFORD.
C. KEYS.	C. LEAMCUTT.
EVAN LLOYD.	J. PAVIN.
THOMAS H. DAVIES.	J. CALDER.
J. G. REMINGTON.	P. BROWN.

Repair of Roads.

In the year 1809 and for periods prior and subsequent to that year, Government always paid part of the expenses of the repair of roads as on 2nd October 1809 a letter from Government dated 9th September 1809 was laid before the Bench, advancing to the Board Rs. 12,000 for the repair of the roads. In that year Mr. Sorabji Byramji and Mr. Mahomed Hussan were contractors for the repairs of roads which they used to undertake in consideration of a sum of Rs. 755 per mensem for certain portions of the Town.

The repair of roads were in charge of the Surveyor of Roads and the Superintendent of Police but on 5th September 1808, a Committee which comprised of Mr. Fell, Captain Cowper, Messrs. Ashburner, Briscoe and Morley reported that the contract for the repairs of the roads should no longer continue in the Surveyor of the roads and the Superintendent of Police and that the office of Surveyor of Roads should be separated from the Superintendent of Police and that the roads should be repaired by public contract. This was done.

The cleansing and repairing the Streets of the Town and the application of the Assessment Funds to those purposes were by Act 33, George 3, Chapter 52, under the exclusive direction of His Majesty's Justices of the Peace assembled in General Sessions, independent of every species of control or interference of the Hon'ble the Governor-in-Council. The power of repairing the roads beyond the limits of the Town was a delegation from the Hon'ble the Governor-in-Council. The General Sessions held on 16th March 1808 on the motion of the Hon'ble the Governor recommended the Government to annex the regulation and collection of the Wheel Tax to the one authorised by Act 33, George 3, chapter 52 and which with an improvement in the rates and system of the Wheel Tax would tend to maintain the Public roads within the limits of the Town in a desirable state of repairs in all seasons of the year.

Applicability of Assessment Funds for repairs of roads.

This was complied with by Government on 18th March 1808.

In consequence of the demands upon the Assessment funds being so heavy as to render it necessary to apply for further pecuniary assistance, the Bench thought it highly expedient that they should be curtailed as much as possible till the Debt incurred be liquidated and they accordingly resolved:—

Stoppage of the Watering of Roads.

“That the watering of the Roads beyond the verge of the Esplanade be discontinued from 1st December 1821 until further orders and that Capt. Dickenson be further requested not to incur any expenses at present for improvement to the Roads beyond the usual repairs. In 1824 the watering of roads were again discontinued.

In 1838, the improvement of the thoroughfare in the vicinity of the old Secretariat premises were undertaken by Government including the rounding of the corner of the Town Majors Office between Apollo Street and Bruce Lane. The Board contributed Rs. 4,772-13-10 towards the expenses. In the same year the Mazagon Road from the Baboola Tank Road to the east end of the wall of the Hope Hall estate (at the foot of the present Mazagon Bridge) was widened at a cost of Rs. 39,500.

Road Improvements of 1838.

RULE OF THE CHURCH GATE.

At an adjourned Quarter Sessions of the Peace assembled on 15th February 1823 the Bench considered a reference from the Secretary to Government dated 30th January 1823 transmitting by desire of the Hon'ble the Governor in Council an extract from a presentment of the Grand Jury and requesting the opinion of H. M.'s Justices whether it would be desirable to reserve the Church Gate Street for the ingress and egress of the European Population only and the Bazaar Gate for the use of Purvoes native clerks and others who go into the Fort daily.

The Justices after deliberating on the subject were of opinion that the remedy proposed besides being liable to other objections was not in itself practicable. They at the same time very respectfully submitted to Government the following rules, the adoption of which would in a great measure remedy the evil complained of in a way less liable to exception.

“ 1. No empty chaise or other empty carriages of any description (except at funerals) is allowed to enter or go out by the Church Gate.

“ 2. No hakiry or carriage without springs to enter or go out by it.

“ 3. No cart or carriage of burden of any description, whether drawn by bullocks or horses, to enter or go out by it.

“ 4. No led horse or cattle of any description to enter or go out by it, and all such found between the entrance of the Glaces and inner Gate to be pounded.

“ 5. No cooly or other porter with load, baggage or Bangi to enter or go out by it. But hammals or coolies bringing water into the Fort are permitted to go out and in by it till 9 o'clock in the morning.”

With regard to that presentment of the Grand Jury which recommends that what is termed the laws of the roads should be published by authority both in the English and native languages, the Justices thought the suggestion a very judicious one and recommended the following rules.

GENERAL RULES FOR ALL ROADS AND STREETS.

“ 1. Every person in walking, riding or driving on the road must keep to the left hand side of the road, that is, to the side of the road that is on his left hand.

“ 2. A person overtaking and walking, riding or driving past another on the road must keep the person or carriage he overtakes and passes, on his left hand.

“ 3. Any person violating these rules is liable to the penalties and damages occasioned by the infraction of them.”

This was agreed to.

ROADS AND STREETS.

In 1865, Mr. Burns was the contractor for the repair of the roads but he having failed to carry out the work satisfactorily, the same was cancelled. He was also, in that year, the contractor for the rolling and watering of the roads at the rate of Rs. 20,000 per mensem. He failed in this contract. The unusually heavy monsoon of 1866, did great damage to the roads. Every embanked roadway gave way more or less, and required extensive repairs. Prior to this period the roads had been for years insufficiently repaired or neglected, while the traffic on them had been increasing daily. The consequence was that in the year 1866, the cost of metalling &c. the roads amounted to Rs. 10,70,507 and the cost of watering and rolling the same was Rs. 2,82,337 while in 1862, the cost of metalling was Rs. 1,08,799 and the cost of rolling and watering Rs. 30,891.

The contract system of repairing roads was again tried in the years 1872 and 1873. A number of roads or portions of roads were selected amounting in area to about $\frac{1}{5}$ of the whole area repaired and it was so arranged as to facilitate comparison with roads in similar condition to be repaired departmentally. The result was

unfavourable to the contract system. The following is an abstract of the work done :—

	Sq. Yds.	Cost.	Rate per sq. yd.
Departmental work	7,51,177	Rs. 1,82,198	Rs. 0-3-10½.
Contract work	1,52,839	„ 71,643	„ 0-7-6.

The following new roads were constructed and opened during the year 1868 at Municipal expense :—

Nowroji Hill Road ; Delisle Road; Haines Road; Arthur Road and part thereof.

The following roads which were opened in the same year were constructed at the cost of Government and handed over to the Municipality.

Clerk Road, Rampart Road East or the Eastern Boulevard. Four cross roads on the Esplanade.

The following gives the dates of construction of certain roads in Bombay :—

Cruickshank Road	in 1865-6.
Esplanade	„ „
Bandstand	„ 1866-7.
Novroji Hill	„ 1865.
Breach Candy	„ 1866-7.
Mahalaxmi	„ „
Tardeo	„ „
Bellasis	„ 1866.
Clare	„ 1867.
Falkland	„ 1868.
Bori Bunder	„ 1868.

Likewise in that year 410½ acres of roadway area was daily watered by means of 100 water carts as under :—

82.32 acres watered once only.

328.16 „ „ twice a day.

Maintenance
and construc-
tion of new
roads.

Since the passing of the Municipal Act of 1872 special attention has been paid to the maintenance of roads, and to the construction of new roads.

The road surface invariably consists of at least 6 inches of macadamised trap block laid on 6 inches of rubble packing of the same material.

Steam Rol-
lers.

Steam Rollers were first introduced in Bombay in the year 1869. The first was far too heavy for the roads and had to be used with great caution.

In 1870 Government handed over the following roads to the Municipality :—Half of the Queen's Road; Watsons' Hotel Road and Road at the back of the Municipal offices ; road off Hornby Row across Esplanade.

In the year 1871, a trial was made at introducing Cooper's deliquescent salts, which was used at that time, with success in London in road watering. The result of this trial as far as effect went was perfectly satisfactory; the road in front of the Municipal office was watered once in a day at 8-30 a. m., and it remained moist up to sunset that night, but the cost of the salt with the Patentees' Royalty (amounting in all to £ 4-10sh. per ton) was more than sufficient to make its general adoption impracticable.

Towards the close of 1871, in consequence of the very partial monsoon and the slight addition it had made to the level of the Vehar lake, sanction was obtained from the Bench for the erection of Persian wheels at convenient tanks and wells throughout the Island for watering the roads. A number of correspondents to the news papers raised objections to the introduction of so ancient a machine as the Persian wheel. It was however the easiest and cheapest method of raising water (up to a certain height.)

Prior to 1872, most of the public streets were narrow and crooked. Since then many of them have been much improved by taking up land on either side thereof whenever opportunity offered and by throwing the land so taken up into them. The City Improvement Trust which has been in existence for the last two years have prepared schemes for the improvement of the City especially the congested areas.

In the year 1866, there were in the city 509 streets of a total length of 1,74,808 sq. yards, the total average width of each street was 24 feet. Out of the total of 16575 houses, there were 5265 of 1 flat.

6466 „ 2 flats.

2940 „ 3 „

1355 „ 4 „

494 „ 5 „

55 „ 6 „

Of this number 1116 were houses with gardens.

One of the greatest improvements carried out in 1883-4 was the extension of Charni Road to Grant Road effected partly by making a new road through the cultivated ground lying between Girgaon and Khetwadi and partly by widening the street known as khetwadi 15th Lane. An entirely new road was also made from Chinchpokli Station to Sewri Road, giving a better access to the quays on the Frere Reclamation.

Watering of
roads with
Cooper's Deli-
quescent salts.

Introduction
of Persian
wheels in the
City.

Streets in
Bombay in
1866.

Roads from Warli to Parel and from the Byculla Hotel across the old race course to the centre of the flats were also undertaken.

Three thousand sq., yards of land at the Mombadevi Tank were purchased. This property before its acquisition was covered with firewood sheds and cattle stables of inferior construction.

The Ripon Road was completed in 1885. The new Fergusson Road from Warli to Parel made good progress. An improvement was effected at Paidhoni by opening out a new entrance into Babu Khote street and the gradual widening of Girgaon Road and other thoroughfares.

Arcading of
Streets.

On the 13th May 1889, the Corporation passed a resolution to the effect that no arcades should be allowed except in the following streets in which arcading has already been sanctioned or streets made over, or to be made over, by the Port Trustees *viz.*, Rampart Row, Esplanade Road, Hornby Road, Fuller Road, Elphinstone Circle, Colaba Causeway and Abdul Rahman Street.

Lists of roads
in Bombay.

In the list of roads published for the year 1898, there are 116 first class, 80 second class, 398 third class and 270 private roads and lanes in Bombay.

The following Statement shows the length of the roads in the different wards of the city :—

WARDS.		Public Streets existing in the City in 1900.			
		Metalled surface.		Kacha.	Footpath.
		Length Feet.	Area excluding that repaired by the Tram- way Co., Sq. Feet.	Length.	Area.
A.	North	64,302	29,17,575	26,860	5,50,369
A.	South	65,999	29,75,355	17,388	2,10,260
B.	North	51,143	15,84,019	32,063	2,91,956
B.	South	45,193	16,23,627	15,938	1,39,896
C.	North	51,459	13,25,016	1,686	11,268
C.	South	40,625	11,09,844	7,200	66,402
D.	.....	55,827	19,14,234	9,850	1,42,000
D.	.....	84,618	34,13,793	14,476	2,89,530
E.	East	64,082	19,09,170	23,706	2,34,360
E.	West	1,08,878	37,75,041	63,390	6,91,272
F.	.....	83,365	24,63,846	29,652	2,96,220
G.	.....	84,772	24,80,675	15,130	2,03,300
		7,95,263	2,74,92,195	2,57,339	31,26,833

The total length of the Bombay roads is about 150 miles.

The following is a list of overbridges in Bombay.

No.	Name of Bridges	LENGTH.		Width of Road-way.	No. of Sps.	Width of Spans.	GRADIENT.		Footpath.	Tramway.
		East.	West.				East.	West.		
1	Frere Bridge ..	584'-10"	476'-8"	45'	9	$\left\{ \begin{array}{l} 12'-6'' \times 13'-9'' \\ 13'-9'' \times 17'-8'' \\ 28'-8'' \times 17'-8'' \\ 13'-9'' \times 13'-9'' \times 12'-0'' \end{array} \right.$	$\left\{ \begin{array}{l} 1 \text{ in } 32 \\ 1 \text{ in } 28 \\ \text{South. N.W.} \end{array} \right.$	Nil.	No tram line.	
2	Kennedy Bridge ..	439'-5"	405'-1"	29'-6"	3	10' x 28' x 9'-8"	1 in 37	1 in 29	"	"
3	Bellasis ..	654'-3"	614'-9"	30'-6"	1	28	1 in 34	1 in 33	"	"
4	Wodehouse ..	695'	767'	50'	3	14' x 27'-7" x 14"	N. E. S.W. 1 in 38	1 in 41	7' On either Side of the road.	"
5	Carnac ..	542'	351'	60'	1	52	1 in 31	1 in 50	Do.	Double tram line.
6	Elphinstone ..	612'	68'-6"	50'	3	52'-5" x 16'-6" x 12'-3"	1 in 30	....	10' On both Sides.	No tram line.
7	Byculla ..	693'	600'	60'	1	59	1 in 40	1 in 40	7' do.	Double tram line.
8	Ollivant ..	620'	565'	40'	1	51	1 in 35	1 in 35	Nil.	No tram line.
9	French ..	321'-8"	390'	30'-2"	3	9' x 28'-1" x 9'	1 in 28	1 in 27	"	"
10	Musjid ..	457'	192'	60'	3	52'-5" x 25' x 8'	1 in 30	1 in 30	12' on both Sides.	"
11	Hancock ..	241'	298'	50'	2	52' x 52'	N. Side S. Side. 1 in 29	1 in 28	Nil.	Double tram line.
12	Falkland ..	582'	753'	35'	1	56'-6"	1 in 26	1 in 33	5' On both Side.	No tram line.

* Built in 1866-7 at the joint expense of the G. I. P. Railway and the Bombay Municipality, Government granting the land.

Vote of
want of con-
fidence in the
Executive
Engineer on
special Duty.

On the 25th March 1880 a requisition signed by 21 Corporators was submitted to the President requesting him to call a special General meeting for the consideration of the subject of the Malabar Hill Reservoir and Bridge contract and the conduct of the Executive Engineer on special duty in charge of the works.

In connection with a letter from Mr. Naorojee Furdonjee, the Municipal Commissioner said that he had received reliable information of a few hundred rupees having been realised by the sale of stones and earth, the property of the Municipality which sum had not been credited to the Municipality.

The Hon'ble Mr. P. M. Mehta then proposed and Mr. Harkisondas Narotumdass seconded:—"That upon a careful consideration of the fact brought to their notice in the report of the Municipal Commissioner of 5th March last, and the papers and correspondence relating to the subject matter thereof *viz.*, the Malabar Hill Reservoir Road and Bridge contract, the Corporation arrives at the conclusion that the Executive Engineer on special duty has been guilty of so grave a dereliction of duty that the Corporation cannot continue to place any further confidence in him. That the Municipal Commissioner be requested to communicate the above Resolution to the Executive Engineer on special duty. That the Municipal Commissioner be requested to institute all necessary proceedings, civil or criminal or both, against the contractor, for the purpose of bringing him to account for wrongful appropriation of Municipal property, and for recovering from him all damages, compensation or refund to which the Municipality may be entitled in respect of the above named contract. That the Corporation trust that the Municipal Commissioner will take all necessary steps to reorganise the Department in charge of the Executive Engineer on special duty, as recommended in the report of the Consulting Engineer."

An amendment was proposed by F. Mathew Esq., seconded by H. E. Jacomb Esq., approving of the views of the Municipal Commissioner as summed up in his report No. 2355 of 1880 dated 5th March and to request that these sentiments be officially communicated to Mr. Walton.

This amendment was subsequently withdrawn and another amendment proposed by Captain H. Morland to the effect that the Executive Engineer has been grossly careless in the performance of his duty in connection with this work and has neglected the pecuniary interests of the Municipality and consequently deserves to be severely censured. That this Resolution be communicated to him. That the Municipal Commissioner be requested to institute such measures as he may be advised, are practicable and desirable against the contractor Mr. Haji Cassum Joosub.

Another amendment similar to that moved by Mr. F. Mathew was moved by Mr. G. Geary.

The discussion occupied six meetings and eventually the amendment of Captain Morland was carried by a majority of one vote only. They were 29 for and 28 against it.

SURVEY DEPARTMENT.

What was formerly called the Surveyors establishment was in 1865 called the Executive Engineer's establishment. The Chief Engineer of the Vehar Water Works was an independent officer, and the Drainage Department was distinct. These officers were however to a considerable extent subordinate to two Consulting Engineers appointed by the Government but paid by the Municipality. The Consulting Engineer audited and countersigned all the accounts of these Departments. When the Bombay Municipal Act of 1865 came into force, the procedure was changed by the appointment by Government at the beginning of 1866 of an Engineer to whom all the other Engineers were subordinate.

By Act III of 1888, the Executive Engineer is subordinate to the Commissioner.

THE DOG NUISANCE.

The following minute by Robert Cotton Money Esq., was considered at a meeting of the Justices held on 7th May 1832:—

“I would wish to bring to the notice of H. M.’s Justices of the Peace, the present useless plan adopted to rid this Island of the swarms of Pariah dogs which

infest it. About Rs. 3,400 are annually expended in rewards for killing dogs, a sum which might have been far more profitably spent in some improvement, but general complaints can only be said to have been thrown away—not only is the expense useless, but the time of killing dogs being confined to 2 months in the year it actually offers a premium for the preservation of these animals during the intervening months when they are carefully allowed to grow, that there may be the more to kill. Were the Police permitted to kill them the whole year round this would be remedied. It is notorious that during the said 2 months thousands of them are locked up in godowns and other places and then let loose on the Town and Island. I would propose that a letter be written by Mr. Noton to Government bringing these and other obvious facts to their notice and begging that more efficient measures be adopted to free the Island from these animals, either that the Police be authorised to kill all stray dogs the whole year round, receiving a larger reward for bitches than for dogs or that a tax be levied on them—perhaps some better plan may suggest itself to some one of my brother Justices.”

It was resolved that Government be addressed accordingly.

Government replied on the 15th May 1832 forwarding a copy of a notification strictly prohibiting the admission of Pariah dogs into Government premises and directing that such as are found there be instantly destroyed.

The Commissioner of Police in Bombay is at present authorised to destroy stray dogs after giving public notice.

In connection with the dog question the following communication from Government was considered by the Corporation regarding the introduction of the Dog Tax.

No. 2552 of 1887.

GENERAL DEPARTMENT.

BOMBAY CASTLE, 29th August 1887.

To

Dog Tax.

The Chairman of the Municipal Corporation Bombay.

SIR,—I am directed to forward herewith a copy of a letter No. 3139, dated the 6th July last, from the Inspector-General of Police, for the favour of your obtaining the opinion of the

Corporation whether it would be expedient to legalize a dog-tax as a source of Municipal Revenue in Bombay.

I have, &c.

J. DE C. ATKINS,
Under-Secretary to Government.

No. 3139 of 1887.

POONA, 6th July 1887.

To J. R. Naylor Esq.;

Chief-Secretary to Government, Judicial Department,
Bombay.

SIR,—I have the honour to respectfully suggest, for the consideration of Government, the introduction of a dog-tax in all Municipal towns in this Presidency.

2. When I was Superintendent of Police in the Kanara District, we were at one time much troubled with mad dogs in Karwar, and the Municipality at my suggestion obtained the sanction of Government to impose a tax on all dogs kept within Municipal limits. This tax is, I believe, still in force at Karwar, has worked there with good results for about sixteen years.

3. The tax, I would propose, is Rs. 2 per annum for each dog, and on payment of this amount, the owner would receive a small leather collar with a brass number, and all dogs so provided would not be liable to be destroyed by the Police, even though they should stray from home.

4. This tax would not touch the poorer classes, and would only be paid by those who could well afford to do so, while in a Cantonment and city like Poona and other large places, it would add to the Municipal receipts.

5. My object in proposing the tax, however, is not to add to Municipal receipts so much as to relieve the Police of the task of discriminating which are stray dogs and which are not. The duty of destroying dogs is most distasteful to the Police, and yet we are compelled to select some of our most intelligent men for the work, owing to the danger of entrusting strychnine to stupid hands, and also as far as possible to prevent mistakes in poisoning dogs who have owners.

6. When I mention that the returns for the nine months ending 30th April last, show that the Police destroyed over 76,000 dogs, or say, one lakh per annum in the Presidency, it cannot be wondered at that, with every care, some mistakes must occur; and it is to prevent these mistakes and relieve the Police of the abuse to which they are subject in consequence (some people going so far as to threaten civil actions) that I am anxious to have a tax imposed, by means of which the power of protecting their dogs is left in the owners own hands. If an owner pays his 2 rupees, and gets the Municipal collar, his dog will be protected, although he may stray to a distance from his home,

as dogs will do at certain times, and it is not left to the Police to decide which are stray and which are not.

7. Should my suggestion meet with the approval of Government, I am of opinion that all expenditure on account of strychnine powders used in large towns should be defrayed by Municipalities from the dog-tax receipts; at present Government are required to supply about one lakh of powders yearly. I have &c.,

F. J. WISE,

Inspector General of Police.

Proposed by Captain Selby, Seconded by Javerilal Umiashankar Yajnik Esq.,—

“That the Chairman be requested to explain to Government the cause of the delay there has been in replying to this reference, and that Government be informed that, in the opinion of this Corporation, no reason has been shown for the levy of a dog-tax within the limits of the Town and Island of Bombay, and they are therefore not prepared to recommend legislation in the matter.”

Withdrawn.

Proposed by Sir Frank H. Souter, seconded by Mohamed Husain Hakim Esq.,—

“That letter No. 2552, General Department, dated 29th August 1887, from Mr. Under-Secretary Atkins forwarding letter, dated 6th July last, from the Inspector General of Police, and asking the Corporation's opinion as to whether it would be expedient to legalize a dog-tax as a source of Municipal revenue in Bombay, be referred to the Committee consisting of the following gentlemen for enquiry and report:—

Surgeon-Major G. Waters.

Cowasjee Hormusji Esq.

Lieutenant-Colonel A. B. Portman.

Dosabhai Framji Esq.

Sir Frank H. Souter kt.

Kavasji Meherwanji Shroff, Esq.

Raghunath Narayan Khote, Esq.

Four to form a quorum.”

Carried.

Considered the following:—

REPORT OF THE COMMITTEE OF THE CORPORATION
APPOINTED TO CONSIDER THE PROPOSAL TO
LEVY A DOG TAX IN BOMBAY.

The Committee appointed by the Corporation, as per margin,

“The letter No. 2552, General Department, dated 29th August 1887, from Mr. Under-Secretary Atkins, forwarding letter, dated 6th July last, from the Inspector-General of Police, and asking the Corporation's opinion as to whether it would be expedient to legalize a dog-tax as a source of Municipal revenue in Bombay, be referred to the Committee consisting of the following gentlemen, for enquiry and report:—

Surgeon-Major G. Waters.

Cowasji Hormusji Esq.

Lieutenant-Colonel A. B. Portman.

Dosabhai Framji Esq.

Sir Frank H. Souter kt.

Kavasji Meherwanji Shroff Esq.

Raghunath Narayan Khote Esq.

Four to form a quorum.”

on the 29th November 1887, have the honour to suggest that Government be informed that, in the opinion of the Corporation, it is not desirable to introduce a tax on dogs as a source of Municipal revenue in Bombay; and after due consideration it is thought

that on the whole it will be better to leave the provisions of Section 116 of the Police Act of 1856 unaltered, so far as this city is concerned.

Under the terms of this law, the Commissioner of Police is vested with considerable and sufficient authority in the matter, for he is empowered to fix, from time to time, certain periods within which any dogs found straying in the streets or beyond the enclosures of the houses of the owners of such dogs may be destroyed; moreover by the same Act, any person who suffers a ferocious dog to be at large without a muzzle is liable to punishment, whilst the Commissioner is also empowered to take such measures as may be considered requisite, in order to keep the streets free from dangerous dogs. Cases of hydrophobia are happily of rare occurrence in Bombay, which would go to prove that the protective measures with which the Police are empowered are, if properly enforced sufficient to secure the safety of the people without recourse to any additional restrictive measures.

30th January 1888.

FRANK H. SOUTER.

COWASJI HORMUSJI.

R. N. KHOTE.

K. M. SHROFF.

GEO. WATERS.

DOSABHAI FRAMJI.

A. B. PORTMAN.

Proposed by Dosabhai Framji, Esq., seconded by Cowasji Hormusji, Esq.—

“That the Report of the Committee appointed to consider the proposal to levy a Dog Tax in Bombay, be approved.

No. 2292.

"2. That the Chairman be requested to inform Government in terms of the report that, in the opinion of the Corporation, it is not desirable to legislate with a view to the introduction of such a tax into Bombay."

Carried.

No. 1856 OF 1888.

GENERAL DEPARTMENT.

31st May 1888.

To

The Chairman of the Municipal Corporation of Bombay.

Sir,—With reference to your letter No. 2297 dated 10th February last, informing Government of the views of the Corporation on the subject of the imposition of a Dog Tax in the City of Bombay, I am directed to state that your letter has been recorded.

(Sd.) E. LAWRENCE,

Acting Under Secretary to Government.

On the motion of Sir Henry Morland this letter was recorded (5-7-88.)

REINTRODUCTION OF THE CONTAGIOUS DISEASES ACT IN BOMBAY.

In their letter No. 133* of 15th January 1880, General Department, Government wrote to the Municipal Commissioner (Mr. T. H. Grant) "Reminding the Corporation that Act XIV of 1868, an Act for the prevention of contagious Diseases, has been for many years in force in the Cities of Calcutta and Madras, with much benefit to the public Health in both those cities and there can be no reason therefore why its reintroduction into Bombay should not, if carried out with tact and judgment be equally successful. Considering that in no other respect is Bombay surpassed by any city in India, His Excellency in Council cannot believe that in this important matter it will remain behind the other two Presidency Towns." Adding "that His Excellency in Council is anxious that Act XIV of 1868 should be reintroduced into the city of Bombay without delay. The annual expenditure was estimated to amount to about Rs. 36,972 exclusive of Rs. 7,000 for furnishing the Central Lock Hospital and three examination offices."

In their Resolution No. 739* of 11th March 1880 Government was of opinion that no further delay should be permitted to occur in bringing again into active operation in the city of Bombay the provisions of Act XIV of 1868 which with sanction of the Government of India were applied to that city from and after 1st May 1870. Government accordingly resolved that the operation should recommence in Bombay from 1st April 1880.

His Excellency the Governor in Council was convinced that the Town Council and Corporation would, with the enlightened and judicious enterprise which has for years characterised their proceedings and administra-

* See appendix H. Record of the Corporation for 1880.

tion gladly contribute their share of the expenses attendant upon the carrying out of the provisions of Act XIV of 1868 afford all assistance within their power and cheerfully render all required aid in giving effect to the humane intentions of Government.

In his letter No. 910 * of 1880 the Municipal Commissioner addressed the Town Council on the subject of the reintroduction of the Contagious Diseases Act XIV of 1868 and drew the attention of the Corporation to the necessity of adopting the proposed measure.

This subject was discussed by the Town Council and Corporation in 1877 and the only objection to the reintroduction of the Act which was then urged by the Corporation was that they "were not in a position with their limited means to supply any portion of the requisite funds for the purpose of carrying out the provisions of the Act."

The Health Officer to whom a reference was made wrote:—"The necessity for enforcing the measure is in my opinion most urgent and the difficulties to be overcome are not very great."

On the motion of T. B. Kirkham Esq., seconded by Muncherjee Nowrojee Banaji Esq., it was *resolved*.—

"That with reference to Government letter No. 133 of 1880 the Municipal Commissioner be requested to lay before the Council the statistics which show the increasing prevalence of venereal disease in Bombay distinguishing the various classes and castes of the population affected and also to ascertain what success the working of the Contagious Diseases Act has met in Calcutta and Madras in effecting a diminution of General Disease and at what cost."

A petition signed by the Lord Bishop of Bombay and a large number of prominent citizens was addressed to the Corporation protesting against the reintroduction of the Act.

Rao Saheb V. N. Mandlik C. S. I. Chairman of the Corporation proposed and Mr. Grattan Geary seconded.—

"That the Corporation of Bombay decline to contribute towards the cost of the working of the Contagious Diseases Act in Bombay, but when the finances of the Municipality

* See appendix H. Record of the Corporation for 1880.

admit of it, the Corporation will be prepared to contribute Rs. 15,000 per annum for the mitigation of diseases in addition to the charges already incurred for the maintenance of the Goculdas Tejpal and Police Hospitals."

Amendment moved by Dosabhoy Framji Esq., C. S. I. seconded by Surgeon Major H. Cook, M. D. "That from the 1st September 1880, the Corporation sanction a yearly grant of Rs. 15,000 towards the expense of the Lock Hospital which is about to be established in the city by Government under Act XIV of 1868."

The following rider was proposed by Nowroji Furdonji Esq., to the original motion :—

"But that if the existing Hospital accommodation in the city of Bombay for patients afflicted with venereal disease desirous of seeking relief found to be insufficient the Corporation will be prepared annually to contribute a reasonable amount towards the cost of establishing and maintaining a separate ward in connection with the Goculdas Tejpal Hospital or Jamsetjee Jijibhoy Hospital so long as the finances of the Corporation admit of their making such a grant."

This question was discussed at the Corporation meetings held on 23rd July, 6th August, 10th August and on the 13th August a division was taken when there were 18 votes for and 31 votes against the amendment which was *lost*.

A poll was demanded by Dr. Pinkerton, Mr. Dossabhoy Framji, Khan Bahadur Byramji Dadabhoy, Mr. Jacomb and Dr. Cowasji Hormusji with the result, there were 17 for and 33 against it.

The original motion was *carried* by 30 votes against 8 votes.

At The meeting of the Corporation held on 16th November 1880, the following letter from Government was considered :—

No. 3137 of 1880.

GENERAL DEPARTMENT.

BOMBAY 16th October 1880.

To the Municipal Commissioner.

SIR,—I am directed to acknowledge the receipt of your letter No. 10814 of the 5th Instant requesting that the Accountant General

may be instructed to pay the balance of the Government contribution towards the expenses of the Bombay Police for the current year. In reply I am directed to invite your attention to the Resolution passed by the Municipal Corporation of Bombay on the 13th August a copy of which was communicated to Government with your letter No. 9117 of the 19th Idem. In that resolution it was stated that the Corporation would be prepared when the finances of the Municipality admitted of it, to contribute Rs. 15,000 per Annum for the mitigation of diseases in addition to the charges already incurred by them for the maintenance of the Goculdas Tejpal and Police Hospitals. The special measures for the mitigation of diseases which were under the consideration of the Corporation when the Resolution was passed, were those recently adopted by Government under the provisions of the C. D. Act No. XIV of 1868. These measures which in the opinion of H. E. in Council are highly expedient for the health and general welfare of the people of Bombay, will, it is calculated cost at the least according to the latest estimates over Rs. 41,000 P. A. in addition to initial charges amounting to nearly Rs. 7,000. It was as you will remember at first proposed by Government that the Municipality of Bombay should contribute half the total expense of carrying out the measures referred to, Government themselves paying the other half. The Corporation, however, to the regret of Government declined to accede to this proposal though at the same time they expressed their willingness as already stated, to contribute Rs. 15,000 P. A. for the mitigation of disease when the finances of the Municipality should admit of this payment. H. E. the Governor in Council being desirous of deferring as far as possible to the feelings of the Corporation in the matter, does not at present propose to press that body to bear a moiety of the expenses of working the C. D. Act in Bombay. But as the finances of the Municipality are now in a condition sufficiently prosperous to allow without difficulty of the payment of the small additional annual grant, H. E. in Council feels himself justified in assuming that this grant will now be formally sanctioned and, in view of again urging upon the Municipal Corporation the propriety of assisting the Government in suppressing the destructive diseases too prevalent in Bombay by bearing one half of the necessary expenses, is prepared to accept the promised contribution and to devote it solely in aid of the expenses of the Lock Hospital. For this object the accounts can be most simply adjusted by diminishing the Police contribution by Rs. 15,000 P. A. and in view of this I am to state that before passing orders on your letter under acknowledgment, Government will await your reply on the subject of the present communication. No stronger or more sufficient of justification I am to add, of the action of Government in bringing again into operation in the city of Bombay the provisions of the C. D. Act can be furnished than is supplied by the fact as reported by the Surgeon General with the

Government on the 21st ultimo, that of 624 prostitutes residents in Bombay examined up to date, no less than 166 or 26 per cent. had been found to be diseased.

J. M. CAMPBELL,

For Acting Secretary to Government.

This letter was forwarded by Mr. T. H. Grant, Municipal Commissioner to the Corporation for consideration.

It was recorded by the Town Council Resolution No. 4178 of 1880, stating that they were unable to recommend the Corporation to sanction such a contribution.

In their letter No. 3691, General Department dated 7th December 1880 Government informed the Municipal Commissioner that as the Corporation formally declined to give any sum towards the support of the Lock Hospital, H. E. in Council was compelled to direct that the sum of Rs. 15,000 which was the amount asked for by Government for the current year, should be deducted from the Police Grant.

A memorial was then addressed to the Viceroy protesting against the action of the Bombay Government.

On the motion of Mr. Grattan Geary it was agreed that the Chairman of the Corporation be requested to address Government to reconsider the propriety of abducting from the Police grant due to this city the sum of Rs. 15,000 on the plea that it was required for further Lock Hospital accommodation.

Government replied to the Chairman's communication under date 26th April 1881, (Letter No. 1342 General Department, see page 78 Corporation Record 1881) stating that the Resolution of the Corporation contained a misconception which has been adopted from the questions put by Mr. Grattan Geary to the Municipal Commissioner.

Government did not deduct the sum of Rs. 15,000 from the grant in aid of the cost of the Police on the plea that it was required for further Lock Hospital accommodation, but simply as a suitable contribution towards the general working expenses of the Act.

In this letter it was pointed out that the number of inmates under treatment in the Lock Hospital was 67 at the end of January of that year, 90 at the end of February and 93 at the end of March. That Govern-

ment having lately had under review the results obtained in six months since the Act came into force, considers the measures taken have been attended with moderate success, that the expenditure has not been excessive in proportion to the results, and that the act has been worked in a way as to occasion no annoyance to the respectable portion of the community or the women who have been brought under its operation and that the measures taken under the Act have met with sufficient success to warrant their continuance and to justify the expenditure which is being incurred on them.

The following resolution was then carried :—

Proposed by the Hon'ble Rao Bahadur V. N. Mandlik
seconded by Mr. Nowroji Fardonji Esq.—

“ That Government letter No. 1342 of 1881 General Department be *recorded*; the Municipal Corporation regret the action of Government in this matter and against which they beg hereby respectfully to protest.”

A memorial was then submitted to the Secretary of State for India in Council on the question of the sum of Rs. 15,000 abducted by Government.

Lord Hartington's reply was as under :—

To the Government of Bombay.

“ With reference to your letters of the 7th and 30th June last, Nos. 16 and 17, General, the former explaining the course adopted by your Government in regard to the reintroduction of the C. D. Act in the city of Bombay and the latter transmitting a memorial from the Municipal Corporation of Bombay on the subject of the Municipal contribution towards the expenses of working that Act, I have to inform your Excellency that I have carefully considered in Council both the memorial and the reasons assigned in support of the action of your Government in this matter.

(2) I observe however that the Government of India have replied to a similar memorial addressed to the Viceroy by the Bombay Municipality that pending orders which may hereafter be issued on the general question, then under consideration of the working of the contagious Diseases Act, His Excellency in Council was not prepared to interfere in the proceedings of your Government with reference to this subject. Until therefore I am in possession of the views of the Government of India on the subject generally I think it desirable to reserve my judgment upon the points to which your letters cited above relate.

(3). I desire that the Bombay Municipal Corporation may be informed to this effect and that when I am in a position to form an opinion upon the questions involved in this correspondence I will give careful consideration to the various points urged in their memorial."

This was recorded.

At their meeting held on 3rd May 1881, the Corporation considered Government Resolution No. 329 General Department being a report on the working of the Contagious Diseases Act during the 6 months ending 30th November 1882.

Proposed by Grattan Geary Esq., seconded by Shantaram Narayen Esq.—

"That Government Resolution No. 329 General Department of 1883 be recorded with the expression of this Corporation's opinion that nothing is shown either in that Resolution or the report with which it deals, to warrant the Corporation in changing the views it has always held as to the objections against the working of the C. D. Act in Bombay. The Corporation desires to express the confident hope that Government in view of the action of the House of Commons and Her Majesty's Government in England in rescinding the Act in the United Kingdom will now rescind it in Bombay also, where it was imposed against the protest of the Corporation and the citizens of Bombay."

An amendment to record the Government Resolution was *Lost* and the original motion carried by 18 votes against 8 votes.

At thier meeting held on the 3rd August 1883, a letter was read No. 2074 dated 15th June 1883 from the Secretary to Government, General Department stating that Her Majesty's Secretary of State for India considers it is not desirable to make a deduction from the Government Grant for Police towards the working of the C. D. Act; that the grant should now be restored to its former amount, but that he is not of opinion, that the circumstances call for a refund of the sums already retrenched; adding that the Corporation will observe that in para. 3 of Government letter No. 797 dated 26th February last, the Government in Council has already ordered that credit shall be allowed to the Municipality for the full Grant of Rs. 90,000 in the current year and the same

sum will be taken into account in making the adjustment between Government and the Municipality now under consideration. It was proposed that this letter* be recorded but an amendment, to defer consideration was *carried*.

At the meeting of the Corporation held on the 17th August 1883, Government letter No. 2074, was *recorded*.

The Hospital was eventually closed.

THE MUNICIPAL WORKSHOPS.

The following was considered by the Corporation at their meeting held on 9th March 1896 :—

No. 13996 OF 1895-96.

BOMBAY, 7th October 1895.

TO THE MUNICIPAL SECRETARY.

SIR,—I have the honor, to forward the correspondence relating to the subject of the tenure by the Municipality of the Government land near the Crawford Market forming the site of the Workshops and Store-yard with the final report of the Executive Engineer contained in his letter dated the 3rd October 1895. The case has been argued out on both sides, with the result that the terms offered by Government are that "His Excellency the Governor in Council will be prepared to grant the Municipality a lease for any term not exceeding 99 years, with one renewal for a like period, on the conditions now adopted for Esplanade leases, at a rental of Rs. (24,000) twenty-four thousand per annum for the area concerned, which is about 30,000 square yards, after deducting the portion to be given on a more favourable tenure. This proposed rent is less than the full estimated rent value, and Government are further willing to remit one half of the amount for the first 10 years of the lease. The area of 1,000 square yards referred to, which it is proposed to give on more favourable terms (for stable accommodation), may be selected in one block, subject to the approval of Government, and a renewable lease for this will be granted for 99 years at the present rent of one pie per square yard." An early reply is requested to this offer by Government, and the offer is left open for three months from the date of the letter, namely, 27th August 1895, but on a subsequent representation the time has been extended to six months. It has, therefore, become necessary to place the whole correspondence before the Standing Committee and Corporation without delay in order that the matter, which presents considerable difficulties, may be disposed of as speedily as possible.

The ground in question is now occupied as follows :—Workshops, 8119 square yards ; Store-yard, 4,711 square yards ;

* See pages 241, 273, 284, Part II Corporation Record for 1883-4.

Electric Light Station, 367 square yards; Grant House (now occupied by the Chief of the Fire Brigade), 2,716 square yards; Incinerator, 525 square yards; Health Department Stables and Chawls, 12,453 square yards—total 28,891 square yards.

Dealing first of all with the Workshop question, it is clear that at the higher rate of rent to be levied by Government after the first ten years the site would be a most expensive one, and on the basis of 25 years' purchase or 4 per cent. Interest works out to Rs. 1,62,330 or Rs. 20 per square yard, while the report of the Executive Engineer shows that a site of 12,000 square yards in the Agripada direction, inclusive of the cost of filling in, would not aggregate more than Rs. 60,000. It must, however, be remembered that the expense of a move does not begin and end here. From recent personal inspection with the Executive Engineer, I am convinced that many of the buildings and a quantity of machinery is in a most dilapidated state, as, for instance, the corrugated iron roof of the main building, carpenters' and wheel-wrights' shop and the present brass foundry shed, also the materials of the masonry of the walls and buildings, while the existing boiler foundations were laid at considerable expenses and are irremovable.

The Executive Engineer estimates the cost, therefore, of removing, re-erecting, renewing and fitting up the Workshops on a new site at Rs. 1,21,060, which, with the addition of Rs. 60,000 for the site, makes a grand total of Rs. 1,81,060. I am of opinion that this estimate is under the mark, and that nothing short of two lakhs would cover the outlay.

As regards the Store-yard, the value of the land at the rate claimed by Government comes to Rs. 94,220. A large portion of this area is covered with old and useless drain pipes which may as well be transferred to the drainage Store-yard. If, as estimated by the Executive Engineer, only 2,678 square yards are required for this purpose, and a site in the same direction as that proposed for the Workshops can be obtained for Rs. 13,390, plus the cost of removal, erecting sheds, and fitting up, say, Rs. 11,550, it is obvious that the retention of the Store-yard on its present site possesses no advantages for the Municipality.

Electric Light Installation.—This question is fully discussed in the Executive Engineer's report, and I concur in that officer's opinion that the best and most economical course is to move the engine and plant bodily to the compound of the Arthur Crawford Markets.

Grant House.—I do not recommend the Corporation to retain this somewhat extensive area. The rent for such a large plot of ground must necessarily be high, and the advantages to be obtained by no means correspond. It will be far better to relinquish this house and grounds as soon as the new headquarters are ready for the Chief Officer of Fire Brigade's residence and allow house rent to the Assistant Executive Engineer, Mechanical Branch.

The Incinerator.—The Health Officer proposes to extend the capacity of the existing Incinerator from three cells to twelve cells, and for this purpose and the erection of a new chimney 200 feet high, an area of 2,500 square yards will be required. I am extremely doubtful as to the suitability of the present site for an Incinerator, and it would be necessary to ascertain whether Government, in case of their resuming the major part of the property under discussion, would permit the erection of a large Incinerator any-where thereon. This question can be settled as soon as the Corporation have come to a decision on the other points before them.

Health Department Stables and Chawls.—Both the Executive Health Officer and the Executive Engineer are of opinion that the stables and chawls should stay where they are, and looking to the impossibility of finding another site at all, or even then one half as convenient, I concur in that view. To sum up, I consider that the most economical course in the long run would be to remove the Workshops and store-yard to another and less expensive site; (2) to shift the Electric Light engine and plant to the compound of the Crawford Markets; (3) to abandon the site and bungalow known as Grant House as soon as the new Fire Brigade quarters are completed; (4) to retain the site occupied by the Health Department Stables and Chawls; (5) to settle the question of enlarging and keeping the Incinerator on its present site subject to the permission of Government.

I would request the favor of the Standing Committee and the Corporation coming to as speedy a decision as such important matters will allow, and beg to point out that a final reply is due to Government within five months' time.—I have, &c.

P. C. H. SNOW, Acting Commissioner.

Precis prepared by the Secretary of the Papers relating to site of Workshops, Stables, &c., Bori Bunder.

When the work of constructing the eastern boulevard, afterwards known as Rampart Row East, and recently re-named Mint Road, was about to be taken in hand by Government in 1865, the Municipal Commissioner was asked to arrange for the removal of part of the old Fort Market belonging to the Corporation as also certain Municipal Stables, the total area of which was about 500 square yards.*

Just before this, the Commissioner had applied to Government for the grant of land for the site of new markets, and in agreeing to arrange for the removal of the portion of the old market and stables required for the boulevard, stated as follows:—

“Near the old Rifle Lines on the Esplanade is a strip of ground rented to the Municipality from Government as a storage ground. Adjoining it is vacant Government ground occupied by

* Government Resolution No. 6, P. W. D., 29th January 1895 (P. 149), of file forwarded with Mr. Snow's No. 13996 of 7th October 1895.

Mr. Crawford's letter to Government, No. 2365, dated 17th November 1865, (p. 10).

squatters of most filthy habits. Like all Government ground in that part it is insufficiently fenced and is the resort of beggars and tramps of all kinds. It is full of foul and dirty hollows and generally require levelling. 6.—Though it is a rough road to the foot-bridge over the G. I. P. Railway line, a path fenced by railings on each side runs at right angles to the road and the footbridge along the G. I. P. Railway line to the mouth of Dongri Cooly Street. 7.—On the right hand side of this path by the Mutton Market is a siding which we have arranged with the Railway authorities to make a temporary town sweeping siding for the sweepings from the Fort, Colaba, and Mandvi. It is secluded from public view, away from the inhabited town of the main line, from view of which it will be easy to screen it, and in every way most convenient to the Railway authorities and the Municipality. 8.—I propose, therefore, that Government shall rent the ground marked AAAA to the Municipality at a nominal rent on condition of the Municipality levelling the whole of it (which will be very expensive). That I be permitted to set back the palings on the west of the foot-path so as to permit two carts to pass in the passage. That I be permitted to erect on the vacant ground moveable stables of wood and iron with the rough rubble foundations, to be removed at six month's notice on other suitable ground* being provided by Government, who are about to take up the present Municipal stables for public purposes. 9.—Mr. Khandas Muncharam, I may state, has visited the spot with me and has no objection to the above arrangement. 10.—I would add that it is proposed to abandon the Chinchbunder siding directly the new arrangement at Bori Bunder and Byculla can be made. 11.—Both the Railway officials and the Municipality find it very inconvenient and unsuitable, and it was an intolerable nuisance to passengers by the trains and to the inhabitants of that densely populated locality even when only 260 carts of refuse were sent daily. We are now sending 450 carts and shall soon despatch 700 daily. 12.—I venture to solicit the very earliest possible reply to this communication."

On 5th December 1865, Captain Fuller, Secretary to the

Architectural Improvement Committee, in his
See page 8. letter No. 704, to the Secretary to Government,

P. W. D., wrote : " I am directed to inform you that the Committee see no objection to the ground applied for being rented to the Municipal Commissioner, and suggest that the annual charge of one pie per square yard be levied in consideration of the expense of filling in the ground. 2.—A sketch* showing the site allotted, being part of that originally given for the International Exhibition, is herewith annexed. It contains about 7 acres and the annual rental will, therefore, be Rs. 176 more or less."

* The sketch referred to in this letter is not among these papers.—

Thereupon Government passed the following, Resolution,
See pages 7-8. No. 1521/2506, of 9th December 1865 :—

“ Letter from the Municipal Commissioner, No. 2365, dated 17th November 1865, states that Government having directed the construction of the Eastern Boulevard, he has been requested to remove a portion of the public markets and other buildings, but that the markets being vested in the Corporation, they cannot be removed without their sanction, which he cannot apply for until other markets are provided, and solicits the favour of the earliest possible sanction being given for a site on the Esplanade. Also requests that a strip of land marked AAA on the accompanying plan may be rented at a nominal rent to the Municipality for the erection of stabling on certain conditions.”

Report on the above by the Secretary to the Architectural Improvement Committee, No. 704 of the 5th December 1865.

Resolution.—Government are pleased to sanction the application of the Municipal Commissioner for a site for stabling as expressed in paragraph 8 of his letter, on the terms proposed by the Architectural Improvement Committee in paragraph 1 of their letter.

The application for a site for markets will be disposed of hereafter.

T. DOWDEN, Lt., R.E.,
Under-Secretary to Government.

The Executive Engineer has nothing on his records to show P. 3. distinctly the terms on which the land occupied by W^{al}. the Workshops and Store-yard for Special Drainage but was settled between Government and the Municipality, that the Walton, late Executive Engineer, in his precis, states without admission to hold the ground was given by Government C. W., P. W. restriction under its Resolution No. 187/435 P. 29. by Govt of 9th March 1866. It is observable (1) that partment, of 11th ment Resolution No. 3493, Revenue De- P. 30. of the land October 1867, the sanction to the holding ment Resolution No. 87/435—C. W., of 9th March 1866, P. 30. relating to Drainage Works Store-yard, “sanctioned” the arrangement “to occupy,” and (2) that in the Valuation Statement of real property belonging to the Corporation prepared by the late Mr. Narayan Vasudev and Mr. Nasarwanji Chhatrabhoj, dated 20th January 1871, it is stated (page 1) with regard to the Shops and Store-yard that “the land belongs to Government.” The statement does not specify whether the ground was held on lease or sufferance, details which the statement does give as to other

items.* Nor was this particular land entered in Mr. Carwford's list of liabilities on account of Government land appended to the Finance Committee's Report of 11th October 1871, on the strength of which circumstance the executive Engineer, Mr. Walton, surmised that the ground was given to the Municipality free for the carrying out of improvements, a supposition which he considered was justified by the circumstance that the Government of Sir Bartle Frere were always favourably disposed towards the Municipality, an instance of which was shown by the passing of Government Resolution No. 1199, General Department, of 1866, which even went so far as to make over, under certain restrictions, all vacant public lands adjoining the roads and streets. Moreover, it must be borne in mind that, whilst no rent was demanded for the land occupied for the workshops and Stores until 1890, the payment of rent for other lands held from the State was never allowed to fall into arrears.

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Even in Resolution No. 2365, Revenue Department, of 20th April 1887, Government did not dispute the Corporation's title to the Workshops and Store ground.†

This contention of Mr. Walton's, however, is disputed by the Collector of Bombay, who, in his letter to the Commissioner, No. L. R./24 of 4th January 1893, says: 'So far as my information goes this view (*viz.*, 'that the ground is the absolute property of the Municipality,' subject only to an annual rent charge of one pie the square yard) is not in agreement with the records of the case, which seem to show that the tenancy is a yearly tenancy." Again in

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letter No. L. R./88 of 14th idem, he says: "Government received no valuation for the land and gave no permanent title to the Municipality. The sole stipulation was for the payment of an annual rent. As the land is simply rented the tenancy, is of necessity a yearly tenancy, and as such is terminable on 6 months' notice." The papers were placed before the Government Solicitor, who recorded the opinion that the Municipal occupation was on a yearly tenancy, on which advice Government directed the issue

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of 6 months' notice (Government Resolution No. 376-C. W.—1491 of 16th August 1890).

Again the Secretary to Government, P. W. D., in his letter to the Commissioner, No. 6-R. of 29th January 1895, comments on the facts that the evidence goes to show that the intention of Government was (a) merely to allow the temporary use of the ground, which apparently was mainly required for storage purposes; (b) to permit the erection of temporary stables to the

* Note by the Secretary.—Mr. Walton does not refer to the fact that in this Valuation Statement 10,208 yards of ground, the site of the old mutton, fish and grass markets, were entered as being the absolute property of the Corporation.

† Note by the Secretary.—Although Mr. Walton does not note the circumstance, this Government Resolution quotes the fact that the land was let to the Corporation "on a tenancy-at-will."

extent necessary to replace those which had been given up; (c) the intention to provide other suitable ground for similar stable accommodation in the event of the area granted under the application referred to being resumed. That the power to resume possession and the covenant limiting buildings to "moveable stables of wood and iron with rough rubble foundations" would, the Secretary to Government points out, have been unnecessary if it had been the intention to make over the land on a permanent lease. There are other circumstances, argues the Collector, also, which strongly corroborate the view that the Municipality did not claim any permanent title, for in 1866 and 1878 portions, aggregating nearly 7,000 yards of the area, were relinquished by the Municipality and were made over to the G. I. P. Railway Company by or for Government, and it does not appear that any payments for compensation on this account were claimed by, or made to the Municipality, and the absence of any such payments appears to be only reconcileable with the assumption that the land was Government land, held for temporary use until otherwise required, which seemingly was the view of the Esplanade Fee Fund Committee in 1875, when Colonel Hancock, a member of the Committee, minuted: "The adjacent land occupied by the Municipal Workshops is not, I believe, Municipal, but Government property resumable at will." Mr. Pedder, the Commissioner, also a member of the Committee, minuted immediately below, and did not dissent from this view.

The plan of the land originally made over, furnished by the Secretary to the Architectural Improvement Committee, under P. 44. date of 12th February 1866, marked AAA, was a sketch or outline plan only. From the letter to the Commissioner Pp. 49 to 55. from the Municipal Solicitors, dated 29th November 1890, letter from the Commissioner, No. 19343 of 6th December following, and other papers, it will be observed that there has been some difficulty in identifying the land, but after P. 156. prolonged correspondence it was found by Mr. J. W. Smith, Acting Executive Engineer, that the area in question is that comprised within plan No. 424, which comprises P. 98. 29,312 yards. This plan, No. 427, shows within green lines the land comprised in the sketch plan AAA and contained within the 29,312 yards. The Acting Executive Engineer, P. 96. in his letter to the Commissioner, No. 371 of 9th April 1892, appended a statement showing the deductions to be made from the total area in order to arrive at the remainder, the 19,687 yards now in question.

This works out as follows :—

Deduct 9,047 yards land obtained from Government, under Resolution, No. 187-C.W./435, dated 9th March 1866, shown in P. 101. The Municipal Register, No. 427 dated 30th March 1892, (acquired for Drainage Stores). The words of the Resolution being "for the purpose of using it as a store ground."

Deduct 403 yards, being plot A, on plan 424 as above, obtained from Government in exchange for plot B, on same plan, under Government Resolution No. 2365 of 20th April 1887; 175 yards, plot C, on No 424, as above, belonging to the Municipality and recently included in the Workshops compound; total area 29,312; deduct as above 9625, total 19,687. This ground is occupied as follows:—Workshops 8,119 yards; Store-yard, 4,711 yards; Electric Light Station, 367 yards; Grant House, 2,716 yards; Incinerator, 525 yards; Stables and Chawls, Health Department, 12,453 yards—total 28,891 yards.

Note.—A part of the ground was occupied in former years in front of the existing Stables as the Beef Markets, until the Crawford Markets were opened (see Executive Engineer's No. 7610 of November 1891, page 88 of the file).

No question of payment of rent for the land occupied by the Shops and Store-yards was raised until 30th July 1889, when the Executive Engineer, Presidency, in his letter No. 3333, to the address of the Chief Accountant and with reference to Government Resolution No. 1521/2506—of 9th December 1865, as above, requested information as “to which office the rent of the ground” had been paid.

The Chief Accountant having no knowledge of any such payment, asked for information as to where the land in question was situated, but on being informed by the Executive Engineer, Presidency, that the land was that occupied by the Shops, Stables &c., the Chief Accountant addressed the Executive Engineer, Municipality, letter No. 1431

of 2nd September following. Meantime the Collector of Bombay, in his letter to the Commissioner, No. L. R./1604 of 21st August 1890, stated that Government, in the P. W. D. had resolved to demand arrears of the same at one pie per yard per annum from 1st December 1868 for the 16,898 yards so occupied, and requesting payment of Rs. 1,848-3-6, being rent for 21 years from 9th December 1868 to 8th December 1889, at the rate Rs. 88-0-2 a year.*

It is not so stated in the papers; but I may add that, on the 4th July 1892 the Corporation, on the application of the Commissioner, sanctioned the payment of Rs. 2460-14-0, in settlement of the arrears of rent demanded by Government to 8th December 1892.

On 5th September 1890, the Collector in his letter to the Commissioner, No. 1700, forwarded a formal notice of the same date of the determination of the tenancy of the land at the expiration of half a year “next after the end of one half-year from the service of this notice.”

* The explanation of the arrears only being claimed from 1868 is found in the Controller's memo. No. 1068 of 26th August of that year, from which it appears that Rs. 499-12-9 for the rent up to 8th December was claimed by Government (and paid.)

It would appear from the Collector of Bombay's letter to the Commissioner, No. 1985 of 10th October 1891, that the rent for subsequent years was neither claimed nor paid until 1891.

The Commissioner on receipt of the notice asked (letter to the Collector, No. 12189 of 11th idem) whether Government intended to put the Municipality to the enormous expense of removing their Workshops, plant and other structures located on the ground in question. To this the Collector answered (letter No. 1779 of 16th of the same) that the notice was not necessarily for the purpose of resuming the land, but to make things clear for a future arrangement.

On 4th April 1893, the Municipal Solicitors advised the Commissioner that the legal position of the Corporation is that of yearly tenants, although this is not in their opinion the natural outcome of the arrangements come to in 1865, but is due to the unfortunate circumstance that no formal lease or other document embodying the terms agreed to was then executed and registered, and that, consequently, the Corporation are not in a position to enforce that arrangement as against Government. The proposal made in 1865 by the Commissioner does not read as a proposal to take on a mere yearly tenancy determinable by Government on six months' notice without giving any compensation or equivalent. It seems impossible to resist the conclusion that what was in the contemplation of everyone who had to do with the matter was something in the nature of a permanent tenancy, subject to the right of Government to determine such tenancy at six months' notice "on other suitable ground being provided by Government." Notwithstanding the Collector's statement that Government received no valuation for the land and gave no permanent title, it does appear that there was a substantial and valueable consideration for creating the permanent title which, according to the Solicitors' view, was clearly intended, though, unfortunately, never legally perfected; it was clearly on the faith of some permanency of title that the Municipality undertook the expense of filling in and levelling the ground.

Again, in their letter to the Commissioner, of 11th March 1893, the Solicitors remarked that the ground for the site of the stables was given in substitution for the site of other Municipal stables required of Government for public purposes. It does not seem to be suggested that the Municipality failed on their part in filling in the ground, although it is now sought after the lapse of time, to minimize the value of what they did by suggesting (para. 7 of Government letter No. 6 R., P. W. D., of 29th January 1895), "that the necessity for levelling was not in reality a very serious factor." As a matter of fact this was the factor on which the Commissioner ventured to base his application in 1865 and the factor which induced Government to sanction the application. In conclusion, the Solicitors suggested that a further reference might be made to Government for modifying the terms demanded. In the meantime,

the Secretary to Government, Public Works Department, in his letter No. 6 R. of 29th January 1895, informed the

Commissioner that Government will be prepared to sanction the grant of a plot for the stables, but that with reference to the whole area, the utmost Government can admit is (a), the intention to allow the Municipality the temporary use of the land which apparently was at the outset mainly required for storage purposes ; (b) the intention to permit the erection of temporary stables to the extent necessary to replace those which had been given up ; and (c) the intention to provide other suitable ground for similar stable accommodation in the event of the area granted originally being resumed. Government do not consider that even if there had been a formal lease, the terms, thereof, would have done anything more than grant the temporary use of the land. His Excellency in Council cannot allow that the Municipality have any claim for a permanent lease on terms below the market value, except in regard to a site for stable similar in area to the site occupied by the stables removed for road improvement. Government are willing to grant 1,000 square yards, in a position they will select for the purpose on the plot in question, on a renewable lease at the existing ground rent ; but in regard to the balance it does not appear to Government that a case has been made out for any special concession. The Corporation have already had the use of the land on most favourable terms for many years, and for purposes not contemplated in the original permissions and it now appears to Government that a fair rent should be charged for as much of the site as the Municipality wish to retain * * and the Collector will be asked to report as to the revised rent to be imposed from 1st April 1896.

On 5th July last, the Commissioner in his letter No. 6995 (prepared by the Municipal Solicitors) replied to this letter, stating that the Municipality desire to retain the whole area. But he asked for a further consideration of the question, and urged that some permanency of tenure must have been contemplated. He gratefully acknowledged that Government had practically recognised this principle by now permitting the Corporation to continue in occupation on certain terms. He pointed out that Government remarked that, in 1866 and 1876, the Municipality, at the instance of Government, relinquished for railway purposes about 7,000 yards of the land originally granted without claiming any compensation—a fact which seems to be only reconcilable, with the assumption that the land was Government land, held for temporary use. He had been unable to trace the circumstances under which the 7,000 yards were relinquished, but he might be permitted to point out that, *ex hypothesi*, Government no doubt reserved the right to resume all the land on six months' notice, and that the circumstance that when portions of the land were resumed no claim was made for compensation may well have been due to the circumstance that what remained was sufficient for the Municipality, and to the fact of the absence of any legal instrument under which alone such a claim could be maintained. In conclusion, the Commissioner

asked that some modified terms might be fixed for the continuance of the tenancy. The Secretary to Government in replying stated in his letter to the Commissioner, No. 105 of 27th August last, that His Excellency in Council will be prepared to grant the Municipality a lease for 99 years with one renewal for a like period, on the condition now adopted for Esplanade leases at a rental of Rs. 24,000 per annum, after deducting the 1,000 yards for stables. This is less than the full estimated rent value, and Government are further willing to remit one-half of the amount for the first ten years of the lease.

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This offer of Government is open for six months from 27th August.

At the conclusion of this correspondence, the Solicitors, on 6th September last, advised that there is no alternative legally but to submit to the terms of Government

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or vacate the land.

The question (1) of the probable relative cost of retaining the tenancy of the whole land and (2) of giving up portions of the land and removing the Shops and Stores and Electric Light Station are concisely stated in the opening paragraphs of the Commissioner's letter.

The Standing Committee submitted the following report:—

The Standing Committee beg to state, with reference to the

Letter to the Secretary, No. 13996, dated 7th October 1895, from the Acting Commissioner on the subject of the tenure by the Municipality of Government land forming the site of the Municipal Workshops, store yard, Health Department stables and chawls, and the town sweepings incinerator.

letter from the Acting Municipal Commissioner as per margin and the papers relating thereto, that, after

the land and buildings in question had been inspected, the various points requiring consideration were discussed with Mr. Snow, the Health Officer, and the Executive Engineer, and that the Committee have now to report as follows:—

The area of the ground in question is about 30,000 square yards, and Government state that His Excellency the Governor in Council will be prepared to grant the Municipality a lease of the same for any term not exceeding 99 years, with one renewal for a like period, on the conditions now adopted for Esplanade leases, at a rental of Rs. 24,000 per annum. After deducting 1,000 yards of the area occupied for stables of the Health Department, which, for certain reasons, Government are willing to lease for 99 years at the present rental of one pie per square yard per annum. The rate of Rs. 24,000 is less than the full estimated rent value, and Government are further willing to remit one-half of the amount for the first ten years of the lease.

The Committee are of the following opinion :—

(a) That at the enhanced rental asked by Government it will not pay to retain the following portions of this land, viz. :—

	Area.				
	Sq. yds.				
Grant House Compound	2,716
Store Yard	4,711
Workshops	8,119
Electric Light Station...	367
Total					15,913

(b) That it will suit Municipal requirements to retain the following areas :—

	Area.				
	Sq. yds.				
Health Department Stables and Chawls	12,453
Incinerator Station	525
Total to be retained					12,978

2. *Grant House* is the residence of the Assistant Engineer, Mechanical Branch, but is at present temporarily occupied by the Chief Officer of the Fire Brigade until the completion of the Fire Station at Sankli Tank, and, if the house is given up to Government, other quarters, or an allowance for house-rent, will have to be provided for the Assistant Engineer.

Grant House was constructed by the Municipality in 1878, and, in handing over the area (2,716 square yards) occupied by the house to Government, it will be necessary to ask the Commissioner to ascertain on what terms Government will take over the buildings on the site.

3. *The Store Yard* (area 4,711 square yards).—It would seem desirable to dispose of the old useless materials lying on this site instead of having them removed to the new store yard as suggested by the Commissioner in his letter.

4. *The Workshops* (area 8,119 square yards).—It appears from the statement made by the Executive Engineer that the immediate removal of the shops would necessitate considerable expenditure on new buildings not at present absolutely necessary, whereas the buildings, if allowed to stand, would in any case have to be re-roofed in the course of the next two or three years. It is thought that Government should be approached with a view to the gradual removal and reconstruction of the workshops at the new site wherever that may be decided upon.

The Commissioner might be asked to represent to Government the inconvenience and expense which it would be to the Municipality to clear the workshop site and remove everything to a new location, and ask that a period of, say, four or five years may be allowed for acquiring a new site, constructing buildings, erecting plant, &c. The Commissioner would, of course, have

to ascertain on what terms this four or five years' occupancy would be allowed by Government.

The Committee does not consider that the reference made to them covers the need to discuss the wide questions which will have to be settled regarding the new workshops, their site, their extent, the plant—both new and old, &c. All these will doubtless be dealt with by a specially appointed Committee. Pending removal, the repairs to the existing buildings should be limited to works absolutely necessary.

5. *The Electric Light Station (area 367 square yards).*—It is thought that the most desirable course will be that suggested by the Commissioner and the Executive Engineer, viz., to transfer the station to the compound of the Crawford Market.

6. To sum up, as regards the areas to be at once or hereafter to be given up, it is recommended that the following areas should be surrendered to Government at once :—

	Area. Sq. yds.
Grant House... ..	2,716
Store Yard	4,711
Total ...	7,427

and that, subject to the matters being arranged with Government, the following further areas be surrendered to Government within the next four or five years :—

	Area. Sq. yds.
Workshops	8,119
Electric Light Station	367
Total ...	8,486

7. As regards the areas to be permanently retained by the Municipality, it is proposed by the Executive Engineer to continue the occupancy of the Health Department stables and chawls (12,453 square yards), also the site of the incinerator (525 square yards), and the Health Officer wishes to extend the incinerator from a capacity of three to twelve cells, thus increasing the area of land required from 525 to 2,500 square yards. If this scheme is carried out, the total area of land required will be—

	Area. Sq. yds.
For Health Department Stables, &c.	12,453
For Incinerator	2,500
Total...	14,953

and instead of the Corporation having to pay a rental of Rs. 24,000 a year for the 30,000 square yards or thereabout, the proportional rental payable for the reduced area will be only about Rs. 11,963.

When settling terms with Government, the Commissioner might be asked to especially press upon Government the fact that the sanitary necessities of the city require that the Corporation

should have ample accommodation for the Health Department in this locality, and that, taking this circumstance into consideration, Government might be requested to accord still more favourable terms as regards the area of land to be retained for these purposes.

8. The Commissioner does not refer to the particular spot he would select for the 1,000 square yards which Government offer on more favourable terms, and it is not easy to settle this point as the areas recommended to be retained comprise only the Health Department stables and chawls and the incinerator, and in any case the 1,000 square yards of ground cannot be made to contain the whole of the buildings of any one particular kind. It is therefore recommended that, after the wishes of the Corporation as to the land to be retained have met with the approval of Government, an area of 1,000 square yards, covering the most important of the Municipal buildings, be selected as that to be held on the more favourable terms.

BHALCHANDRA KRISHNA, Chairman.

19th February 1896.

No. 24719.

28th February 1896.

TO THE MUNICIPAL SECRETARY.

Sir,—In reference to the Standing Committee resolution No. A-13247 of the 12th instant, I have the honor to report that Government were requested to extend the period of reply up to the 1st May next, and in reply the Under Secretary to Government, Public Works Department, states that Government are pleased to accede to my request and that the period for a reply is accordingly extended to the 1st May 1896, the conditions as to rent commencing from 1st April 1895 to still hold good.—I have, &c.,

P. C. H. SNOW, Acting Commissioner.

Proposed by Bhalchandra K. Bhatawadekar, Esq., seconded by R. H. Vincent, Esq., C.I.E.—

“That the report of the Standing Committee on the subject of Government land occupied by the Municipality for the Workshops, Health Department Stables, &c., be approved.

“2. That the Acting Commissioner be authorised to surrender to Government and vacate at as early a date practicable the following portions of the said land:—

	Area.	
	Sq. yds.	
Store Yard containing	4,711	or thereabout.
Site of the Electric Light Station	367	do.
Total...	5,078	do.

" 3. That he be requested (1) to ascertain from Government the terms on which they will purchase "Grant House," and to inform Government that the site thereof is not required by the Corporation; (2) to inform Government that the Corporation consider it undesirable to retain the site of the Municipal Workshops at the enhanced rental demanded, but that, as the immediate removal of the shops would necessitate considerable expenditure on new buildings not at present absolutely necessary, the Corporation trust that Government will allow the Corporation to continue occupying the ground occupied by the shops, 8,119 yards or thereabout for a further period of four or five years to allow of a proper settlement of the wide questions connected with the establishment of new shops elsewhere.

" 4. That Government be informed it is necessary in order to provide for the sanitation of the surrounding districts, that the land occupied by the Health Department stables and chawls, 12,453 yards or thereabout, and 2,500 yards or thereabout for the sweepings incineration, should be retained.

" 5. That, in settling the terms on which this area of 14,953 square yards or thereabout shall continue in the occupation of the Municipality, the Acting Commissioner be asked to impress on Government the fact that the proper conservancy of the city requires that there should be ample accommodation on the spot in question for the Health Department and that, taking this circumstance into consideration, Government may fairly be asked to accord still more favourable terms for the renewed occupancy of the ground than those already offered."

Amendment proposed by the Hon'ble Mr. Pherozechah M. Melita, C.I.E., seconded by Badrudin bin Abdulla Kur, Esq.—

"That the President be asked to address Government No. 14493. requesting them to extend the time for the consideration of the terms offered by them regarding the land occupied by the Workshops, Health Department Stables, &c., without imposing the conditions laid down in their letter No. R-1/28, P. W. D., of 27th February last.

"2. That the Standing Committee's report of 19th February last, regarding the question and all the papers connected therewith be referred for report to the following Committee with power to take the opinion of Counsel in regard to the whole question:—The President; The Hon'ble Mr. Abdulla M. Dharamsi; Mr. W. R. Hamilton; Mr. Ardesir F. Unwalla; Mr. S. Rebsch; Mr. R. H. Vincent, C.I.E.; Mr. O. V. Muller; The Hon'ble Mr. Pherozechah M. Mehta, C.I.E.; Mr. Dinsha E. Wacha; The Hon'ble Mr. Javerilal U. Yajnik."

On a division, the votes were *recorded* as under:—

	<i>For</i>	<i>Against.</i>
Amendment	20	7

The amendment was *carried* as a substantive motion by 22 votes *against* 4 votes. (9-3-96)

Considered the following:—

No. 5944 OF 1896-97.

BOMBAY, 1st July 1896.

TO THE MUNICIPAL SECRETARY.

SIR,—I have the honor to report that Government claim as their property the two plots of land coloured red and yellow on the accompanying plan and situated in front of the Custom House.

On the other hand, the Executive Engineer's Department contend that these two plots of land form portions of the public street, called Custom House Road, and, as such, are vested in the Corporation. These plots are watered, drained, lighted, and kept in repair by the Municipality. There is also a public urinal on the portion coloured red and a latrine and dust-bin on that coloured yellow, and the rest of the ground is used as a depôt for stacking road-metal and other materials required for road repairs. In short, there is no reasonable doubt, as far as the Municipality is concerned, that these plots of land are portions of a public street.

A voluminous correspondence has ensued between Government and the Municipality, and in the end the former have, without prejudice, waived their right over the plot coloured red and have restricted their claim to the smaller plot coloured yellow. But, as far as can be seen at present, there appears to be no justification for surrendering to Government even the smaller of the two plots of land.

It is my intention to ask Government to reconsider their last decision, and to suggest to them the advisability of referring the question to arbitration, as litigation between the Government and the Municipality would be most undesirable. The Municipal Solicitors, who have been consulted in this matter, have suggested the latter course.

The sanction of the Corporation is requested to the adoption of the above suggestion, it being understood that the decision of the arbitrator will be final and binding both on the Government and the Municipality.

I have purposely avoided entering into the merits of the controversy, as it is not advisable to disclose at this stage the whole case for the Municipality.—I have, &c.,

P. C. H. SNOW, Commissioner.

In accordance with notice, it was proposed by the Hon'ble Mr. Pherozeshah M. Mehta, C. I. E.—

“That Government be requested to be pleased to consent to refer to the arbitration of a Small
No. 4419. Joint Committee the matter referred to in the said item,* as well as the larger question of the claim made by Government to the ground occupied by the Municipal Workshops and Stables, &c., near Crawford Market, as the best and most equitable means of settling these pending disputes between Government and the Corporation.”

The motion was seconded by George Cotton, Esq., and carried. (3-8-1896.)

No. 852 OF 1900.

BOMBAY, 6th June 1900.

FROM F. YORKE SMITH, Esq.,

Acting Solicitor to Government,

TO THE MUNICIPAL CORPORATION,

OF THE CITY OF BOMBAY.

GENTLEMEN,—With reference to the correspondence which has passed between Government in the Public Works and Revenue Departments and your President and the Municipal Commissioner ending with the latter Officer's letter to the Collector of Bombay, No. 2459, dated 5th May one thousand and nine hundred, I have the honour by direction of the Governor of Bombay in Council to hereby demand and require you on the tenth day of December one thousand and nine hundred at 7-30 A. M. to quit and deliver up to the Collector of Bombay (who will receive delivery of them on behalf of Government) possession of all those pieces of land and premises belonging to Government situate and being on the Esplanade, Bombay, near Paltan Road and the Bori Bunder Native Infantry Lines, and also near the Great Indian Peninsula Railway which are now

* Item No. 10 on the Agenda Paper for August Meeting referred to two plots of land in front of the Customs House, claimed by Government as their ground.

in your occupation or possession and used by you for the Municipal Workshops and stables and for stores, other than the land the subject of Government Resolution No. 1521,—C. W.-2506 in the Public Works Department, dated ninth December one thousand eight hundred and sixty-five.

A ground plan of the pieces of land to which this notice refers is attached for your information, such pieces of land being thereon coloured blue, red and yellow, respectively.

I am further directed to demand from you payment of all arrears of rent due in respect of the said premises to Government from the first day of April one thousand eight hundred and ninety-seven.

And you are further hereby required before the said tenth day of December one thousand and nine hundred to remove all the buildings and erections from the said land the subject of this notice and to clear the said land and to hand it over as aforesaid on the said date in good order and condition; and you are hereby warned not to commit any unwarranted waste, spoil or damage in or upon the said premises or any part thereof.

I am further instructed to notify to you that in the event of default being made in complying with the terms of this notice an action for ejectment will be filed against you for the purpose of recovering possession of the land and premises and of enforcing payment of any amount due for damages caused to Government, and that the name of the Plaintiff in such action will be the Secretary of State for India in Council whose abode is in England and that his Attorney for the purpose of such suit will be the Government Solicitor in Bombay for the time being.—I have, &c.,

F. YORKE SMITH,
Acting Solicitor to Government.

No. 853 of 1900.

BOMBAY, 6th June 1900.

FROM F. YORKE SMITH, Esq.,

Acting Solicitor to Government,

TO THE MUNICIPAL CORPORATION,

OF THE CITY OF BOMBAY.

GENTLEMEN,—With reference to the correspondence which has passed between Government in the Public Works and Revenue Departments and your President and the Municipal Commissioner ending with the latter Officer's letter to the Collector of Bombay, No. 2459, dated the 5th May 1900, I have the honour by direction of the Governor of Bombay in Council to notify that your tenancy of the premises described below will expire on the 8th day of December 1900, and to hereby demand and require you

to quit and deliver up on the 10th day of December 1900, at 7-30 A. M. or at the expiration of the current year of your tenancy which shall expire next after the end of one half-year from the service of this notice to the Collector of Bombay who will receive delivery of it on behalf of Government, possession of all that piece of land and premises belonging to Government situate and being on the Esplanade, Bombay, near Paltan Road and the Bori Bunder Native Infantry Lines, and also near the Great Indian Peninsula Railway which is now in your occupation or possession and used by you for Municipal Workshops and stables, a ground plan of which land is attached for your information, such land being surrounded on the said plan by a boundary line coloured green.

I am further directed to demand from you payment of all arrears of rent due in respect of the said premises to Government from the 1st day of April 1897.

And you are further hereby required before the said 10th day of December 1900, to remove all the buildings and erections from the said land, the subject of this notice, and to clear the said land and to hand it over as aforesaid on the said date in good order and condition, and you are hereby warned not to commit any unwarranted waste, spoil or damage in or upon the said premises or any part thereof.

I am further instructed to notify to you that in the event of default being made in complying with the terms of this notice an action will be filed against you for the purpose of recovering possession of the land and premises and of enforcing payment of any arrears of rent and payment of any amount due for damages caused to Government and that the Plaintiff in such action will be the Secretary of State for India in Council whose abode is in England and that his Attorney for the purpose of such suit will be the Government Solicitor, in Bombay, for the time being.—I have, &c.,

F. YORKE SMITH,

Acting Solicitor to Government.

Letter from the Commissioner, No. 17996, dated the 12th October 1900, as under :—

“ With reference to Corporation Resolution No. 6551 of 10th September 1900, communicated to me under your No. 6564 of the same date, regarding the land occupied by the Municipal Workshops, I have the honour to state that the Corporation having in their Resolution No. 3288 of the 18th June 1900, authorized me to protect their rights as indicated in Counsel's opinion and the report of the Committee appointed in that behalf, I referred the matter again for the opinion of our Solicitors, and beg to append a copy of their letter, dated 24th September 1900, for the information of the Corporation. 2. It will be seen that it is now necessary to vacate the plot of ground coloured yellow

and marked B on the accompanying tracing. The only question as regards this plot is with reference to its northern boundary. According to the plans of the Executive Engineer, Municipality, the northern boundary of this plot is as shown by a line scored red, whereas in the Government demand the boundary is in a line coloured green further north. This matter can, I think, only be determined with the Collector of Bombay by actual survey of the ground. I append copy of a letter, which I have addressed to Government, in which I have asked them to be pleased to grant an extension of three months' time to enable me to obtain the sanction of the Corporation to the vacation of the ground coloured yellow and marked B, and also that coloured red and marked C in front of it, to settle the northern boundary of the plot in question and to effect the removal of the buildings. It is not, however, improbable that Government may decline to grant this extension, and I have, therefore, to request that the Corporation will be pleased to take up this matter as an urgent one at their next monthly meeting and pass a Resolution authorizing me to vacate the plots of ground above mentioned, and deliver them up to Government. This will necessitate the removal of the following buildings:—

- (1) "Grant House," occupied by the Assistant Executive Engineer, Mechanical Branch, and outbuildings,
- (2) Electric Light Installation Shed,
- (3) Two Store Rooms,
- (4) Sepoys' Quarters, and
- (5) Log Sawframe and Shed.

As regards "Grant House" I have asked Government whether they will purchase the building at a valuation, and I have to request that the Corporation will authorise me to settle the valuation, if Government are desirous of purchasing the building. If they decline to do so, it will have to be demolished along with the other buildings. The Assistant Executive Engineer, Mechanical Branch, will have to find quarters elsewhere and house-rent will have to be paid to him at the rate of Rs. 100 per mensem as was done before. The Electric Light Installation will have to be removed and re-erected in the compound of the Arthur Crawford Markets. It is absolutely necessary to make temporary arrangements for lighting the Crawford Markets during the progress of the works, as the gas arrangements are inefficient. It would also be necessary to light the Municipal Offices, but that might be avoided if the lighting could be dispensed with for a period of about a fortnight. The store sheds will have to be re-erected on other Municipal ground. The question of the removal of the Workshop shed now used as painters', carriage builders' and pattern makers' shops will depend upon whether the boundary, as laid down by Government or by the Municipality is correct, and a further report will be made on this subject later on. If the boundary fixed

by the Collector is found to be correct, the whole shed will have to be removed and some temporary arrangement will have to be made in the remaining ground occupied by the Workshops, to accommodate the painters', carriage builders' and pattern-makers' shops until a permanent site is fixed for the Workshops. As regards the plot coloured red and marked C, I may state that it was obtained from Government by the Municipal Commissioner, under his letter, No. 7702 of 18th September 1878. In applying for this ground, the Commissioner stated that plots 1, 2 and 3, which formed the ground, "are swampy waste laying between the footpath and the boundary wall of the works and are perfectly useless, causing an intolerable nuisance to the large number of persons daily engaged in the works and rendering the bungalow almost uninhabitable, inasmuch as these plots are converted by passers by into foul and offensive latrines," and asked that he may be allowed to erect a railing or fence along the boundary of the pathway. Government sanctioned the Commissioner's proposal in their Resolution No. 565 C. W.-1598 of 31st October 1878, "on condition that the design of the railing be submitted to the Committee for approval; that the enclosed ground remain the property of Government and that the railing be removed and the ground cleared, whenever called upon to do so." Under these circumstances, we must make over this piece of ground excepting the portion immediately in front of the ground bounded green and which I have scored blue on the accompanying tracing. As regards the plot coloured blue and marked (F) it may be stated that a portion of it forms part of the road and the remainder is included in plot (A) which, according to Counsel's advice, is not to be given up. 3. In accordance with the above remarks, I have to solicit the sanction of the Corporation to vacate the ground coloured yellow and marked (B), the portion coloured red in front of it and marked (C) and to the following expenditure :—

Removing the electric light engine-shed, engine, dynamics and fittings from the Municipal Workshops to the compound of the Crawford Markets and making temporary arrangements for lighting the markets during the progress of the works ...	Rs. 7,600
Working the Municipal Office lights during the removal of the plant	1,400
Removing and re-erecting the large store room and Sepoys' quarters	4,000
Removing and re-erecting the store room for disinfectants	1,000
Removing the Workshops log saw frame with shed and erecting it on another site	2,535
A grant of monthly allowance to the Assistant Executive Engineer, Mechanical Branch for house-rent	100

I shall address the Corporation hereafter on the question of the future location of the Workshops."

Letter to the Commissioner, dated the 24th September 1900, from the Municipal Solicitors :—

“ With reference to your No. 10328 of the 24th July last, we have the honour to state as follows :—

“ 2. The two notices from the Government Solicitor to quit on the 10th December 1900, have reference, we presume, to the property on Paltan Road now occupied by the Municipality, but the two plans which accompanied those notices are not before us. We assume those plans together include the whole of the property so occupied by the Municipality. 3. With regard to what we will term the Northern portion, Mr. Inverarity, when advising the Municipality on the 23rd March 1898, treated such Northern portion as two distinct plots, but contemplated that both plots may be held under one tenure; and, if so, the opinion he formed with regard to plot B applies also to the remainder of the Northern portion (that opinion was that the Municipality being in possession should remain in possession refusing to pay the enhanced rent demanded and leave Government to file a suit to eject them). 4. Mr. Inverarity's doubt whether both these plots were held under the same title was due to the absence of any copy of the plan which (according to Government Resolution of the 9th December 1865) accompanied Mr. Arthur Crawford's letter of the 17th November 1865, to the Secretary to Government, P. W. D., and we understand that it has not since been practicable to obtain sight of that plan. 5. It appears to us, however, that (so far as we can judge from the materials before us) the whole of the Northern portion is in fact held under one title, *viz.*, Government Resolution of the 9th December 1865, though of course, a reference to the plan mentioned should settle the matter beyond dispute. 6. It is true that when Mr. Arthur Crawford wrote his letter, the Municipality were renting from Government a strip of ground near the Old Rifle Lines on the Esplanade as a storage ground, and after referring to this ground his letter mentions adjoining vacant ground occupied by squatters through which there was a rough road. The ground, however, for which that letter applied was “ the ground marked A A A A ” (doubtless on a plan which accompanied that letter, and which plan is referred to in the recital of that letter in Government Resolution of 9th December 1865 as “ the accompanying plan ”). The letter further asked permission to erect moveable stables on the vacant ground. 7. The vacant ground on which Mr. Crawford contemplated that these moveable stables would be erected was doubtless the vacant ground of which he had written as adjoining the strip of ground then rented as a storage ground, but that does not seem to be inconsistent with the view which we take that both the storage ground and the vacant ground (then occupied by squatters) were included in the land so applied for. (The recital of this letter in the Government

Resolution of the 9th December 1865 refers to the request made in that letter as for "a strip of land marked A A A on the accompanying plan . . . for the erection of stabling on certain conditions," but that recital is inaccurate). 8. It is clear that whatever land was applied for was granted by the Government Resolution of the 9th December 1865, and was the subject of Captain Fuller's letter, of the 5th December 1865, to the Secretary to Government, P. W. D., which was accompanied by "a sketch shewing the site allotted, being part of that originally given for the International Exhibition. . . . It contains about 7 acres." 9. In the collection of plans now before us is found a copy of a plan signed by Captain Fuller and dated the 4th December 1865, which shows a plot of about 7 acres and through it a rough road, and describes the land on the northern side of such rough road as "storage ground already rented to the Municipality by the Collector" which is included in the 7 acre plot. There can be no doubt that this is a copy of the sketch which accompanied Captain Fuller's letter of the following date, and that it, therefore, shews the land the subject of the Government Resolution of the 9th idem. We will subsequently deal with the question whether the whole of the northern portion of the land now in question falls within the plot shown on Captain Fuller's plan, but though a good deal of the land shown in that plan is not now occupied or claimed by the Municipality, there can be no doubt that the greater part, if not the whole, of the Northern portion lies within the land shewn on Captain Fuller's plan. 10. In the same collection of plans we find a plan signed by Mr. Rienzi Walton (the then Executive Engineer) under date the 23rd December 1890, which plan by the note on it, is shewn to be an enlarged plan of a sketch forwarded by the Executive Engineer, Presidency, shewing the site, allotted to the Municipality for stabling, in blue, but corrected by Mr. Rienzi Walton in red to shew the portion actually occupied by the Municipality and the existing Municipal blocks. This plan is, however, finally corrected with an *N. B.* under the signature of Mr. J. M. Campbell, Collector, as shewing the site allotted to the Municipality for stabling under the Government Resolution of the 9th December 1865. 11. It appears to us that, subject to the next following para., this last plan is conclusive that the whole of the northern portion is held under the Government Resolution of the 9th December 1865—a conclusion which is in accordance with the plan signed by Captain Fuller, and that the result is that the storage ground originally rented was included in the land for which Mr. Crawford applied. 12. The exception to which we refer in the preceding para. is that the plan as corrected by Mr. Campbell shews that a three-cornered piece at the northern end of the north portion was not included in the land—the subject of the Government Resolution of the 9th December 1865. This three-cornered piece, however, will, we presume, be treated as a tenant's encroachment and will

follow the fortunes of the land—the subject of, and still occupied under, the Government Resolution of the 9th December 1865. 13. Having arrived at this conclusion, it follows that, in accordance with Mr. Inverarity's opinion, the Municipality must refuse to vacate the northern portion and leave it to Government to file a suit to eject them. 14. With regard to the southern portion of the property (which is referred to in Counsel's opinion as plot C), that opinion is distinct that the Municipality should either vacate it or agree to the enhanced rent demanded by Government. 15. Nothing appears to have since been brought to light, which shows that the Municipality can remain in possession after receipt of a sufficient notice to quit this southern portion—which the Government Solicitors' notice of the 6th June last appears to be—therefore there will be no defence to an action for ejectment if filed for this portion of the property alone, and were the Municipality to fail, by the 9th December 1900, to remove their buildings from the land or agree with Government for their sale their right to do so would probably become forfeited. 16. In reply therefore, to the question submitted, we are of opinion that the buildings on the southern portion should be removed (unless arrangements can be made with Government for their purchase), and that portion vacated as demanded by the Government Solicitor's Notice No. 852 of the 6th June 1900, and with regard to the northern portion, the Municipality should not give up possession and should leave Government to file an ejectment suit. 17. We return herewith your file of papers."

Letter to the Under-Secretary to Government, Public Works Department, No. 17,995, dated the 12th October 1900, from the Municipal Commissioner:—

"I have the honour to state that the Corporation, at their meeting held on the 10th ultimo, resolved that your letter, No. B/446, dated the 28th of July last, to the President of that Body on the subject of the land occupied by the Municipal Workshops, be recorded, and in their previous Resolution, No. 3288 of 18th June 1900, they had already requested me to protect their rights in the matter of this land as indicated in their Counsel's opinion. Government have under the signature of their Solicitor, served the municipality with two separate notices, both dated 6th June 1900. In one of them, No. 853, they notify that the tenancy of the premises described in it, and shown by a green boundary line on the plan accompanying it, will expire on the 8th day of December 1900, and demand that the same be quitted and delivered up, on the 10th day of December 1900, to the Collector of Bombay. In the other notice, viz., No. 852, Government demand and require the Municipality to quit and deliver up to the Collector of Bombay, on the 10th day of December 1900, the piece of land and premises coloured blue, red and yellow, respectively, on the plan attached to the notice.

The Corporation are advised that the portion described in the Notice No. 852, coloured yellow and marked (b), should be vacated, or the enhanced rent demanded by Government should be agreed to. Government having declined to permit the Corporation to remain in possession of this plot, I have no other alternative but to apply to the Corporation to accord their sanction to place the ground at the disposal of Government. I may state, however, that the northern boundary of this plot of ground as fixed by the Municipality does not accord with that determined by the Collector of Bombay, the former being about 15 feet away towards the south from the latter. To enable the Municipal Executive Engineer to settle this boundary with the Collector's Department, and also to enable me to remove, in the event of the Corporation finally deciding upon the vacation of the site, the buildings thereon, I have to request the favour of Government granting an extension of at least three months' more time, within which I hope to be able to settle the question of the boundary and obtain the sanction of the Corporation to the vacation of the site and the demolition of the buildings. If Government insist upon the removal of the buildings within the time mentioned in the notice, the electric lighting of the most important Market of the City, *viz.*, the Arthur Crawford Markets and the Municipal Offices, will be interrupted and the Stores Department will also be seriously interfered with.

2. On the plot of ground coloured yellow, there is a valuable building known as "Grant House," now occupied by the Assistant Executive Engineer, Mechanical Branch, of the Municipality, and I have to request the favour of Government informing me whether they are prepared to purchase this building with its out-offices as they stand at a valuation.

3. As regards the Notice No. 853, in respect of the ground bounded by green line, I have the honour to state that the Corporation decline to give up possession of the same and to pay rent to Government at any higher rate than 1 pie per square yard per annum.

4. As regards plot (c) coloured red I am advising the Corporation to hand over to Government that portion of it which is in front of the plot coloured yellow and marked (b). The rest of the ground coloured red being part of that handed over to the Municipality under Government Resolution No. 1521-C. W.-2506, dated 9th December 1865, it cannot be made over to Government.

5. As regards plot marked (f) and coloured blue, I beg to point out that a portion of it also forms part of the ground made over to the Municipality under their Resolution above quoted and part of the public road. It cannot, therefore, be made over to Government.

6. I have the honour to request the favour of a very early reply."

Resolution of the Standing Committee, No. 8578, dated the 26th October 1900 :—

"That the letter from the Commissioner, No. 17996, dated the 12th October 1900, and its accompaniments, be forwarded

to the Corporation, with reference to their Resolution No. 3288, dated the 18th June 1900, and No. 6551, dated the 10th September 1900, with the recommendation of the Standing Committee that, in the circumstances stated, sanction be given (1) to the vacation of the portion of the ground occupied

* Removing the electric light engine-shed, engine dynamos and fittings from the Municipal Workshops to the compound of the Crawford Markets and making temporary arrangements for lighting the markets during the progress of the Works.	Rs. 7,600
Working the Municipal Office lights during the removal of the plant . .	1,400
Removing and re-erecting the large store-room and sepoys' quarters . .	4,000
Removing and re-erecting the store-room for disinfectants	1,000
Removing the Workshops log saw frame with shed and erecting it on another site	2,535
A grant of monthly allowance to the Assistant Executive Engineer, Mechanical Branch, for house-rent . .	100

by the Municipal Workshops, coloured yellow and marked (B), and of the portion in front of it, coloured red and marked (C), on the Plan accompanying the Commissioner's letter; and (2) to the expenditure as shown in the margin*, being incurred from Surplus Cash Balance in connection therewith.

"2. That the Corporation be further recommended to authorize the Commissioner to settle the valuation of the building called 'Grant House,' if

Government desire to purchase it, and to approve generally the other proposals mentioned in the Commissioner's letter."

Proposed by Mr. Mulji B. Barbhaya, seconded by Mr. J. Macdonald—

"That, as recommended by the Standing Committee in their Resolution No. 8578, dated the 26th October 1900, sanction be given (1) to the vacation of the portion of the ground occupied by the Municipal Workshops,

† Removing the electric light engine-shed, engine, dynamos and fittings from the Municipal Workshops to the compound of the Crawford Markets and making temporary arrangements for lighting the markets during the progress of the works.	Rs. 7,600
Working the Municipal office lights during the removal of the plant . .	1,400
Removing and re-erecting the large store-room and sepoys' quarters . .	4,000
Removing and re-erecting the storeroom for disinfectants	1,000
Removing the Workshops log saw frame with shed and erecting it on another site	2,535
Grant of a monthly allowance to the Assistant Executive Engineer, Mechanical Branch, for house-rent. . .	100

coloured yellow and marked (B) and of the portion in front of it, coloured red and marked (C) on the plan accompanying the Commissioner's letter No. 17996, dated the 12th October 1900, and (2) to expenditure as shown in the margin † being incurred from Surplus Cash Balance in connection therewith.

"2. That, as further recommended by the Standing Committee, the Corporation authorize the Commissioner

to settle the valuation of the building called "Grant House" if Government desire to purchase it, and approve generally the other proposals mentioned in the Commissioner's letter."

Amendment—Proposed by the Hon'ble Mr. Pherozechah M. Mehta, C.I.E., seconded by Sir Bhalchandra K. Bhatawadekar, Kt.—

"That the letter from the Commissioner, No. 17996, dated the 12th October 1900 (with accompani-
No. 9174. ments), applying for sanction to the vacation of a portion of the ground occupied by the Municipal Workshops, and to certain expenditure in connection therewith, and submitting other proposals, together with the Standing Committee's Resolution thereon, No. 8578, dated the 26th October 1900, be referred for consideration and report to a Committee composed of the Councillors named in the margin* with a request that they will submit their report to the Corporation within a week at one of its adjourned meetings for

* The President.

Mr. Rahimtulla M. Sayani.

Sir Bhalchandra K. Bhatawadekar, Kt.

Mr. Cowasjee Hormusjee.

The Hon'ble Mr. Ibrahim Rahimtoola.

Mr. Dinsha E. Wacha.

" L. B. Ker.

" H. Kennedy.

The Hon'ble Mr. Pherozechah M. Mehta,

C. I. E.

the current month."

The amendment was *Carried*.

On 13th November 1900 the Corporation considered the report of their Committee which recommended that the sanction of the Corporation may be accorded to the proposals as recommended in Standing Committee Resolution No. 8578, dated the 26th October 1900.

Proposed by Mr. Mulji B. Barbhaya, seconded by Mr. Sundernath D. Khote—

"That the report of the Committee appointed by Corporation Resolution No. 9174, dated the
No. 9267. 12th November 1900, to consider and report on the proposals made by the Commissioner in connection with the Municipal Workshop land, be approved and recorded.

"2. That, as recommended in the above report and in Standing Committee Resolution No. 8578, dated the 26th October 1900, (1) sanction be given to the vacation of the portion of the ground occupied by the Municipal

Workshops, coloured yellow and marked (b), and of the portion in front of it, coloured red and marked (c), on the plan accompanying the

Commissioner's letter No. 17996, dated the 12th October 1900 ; (2) sanction be also given to expenditure as shown in the margin † being incurred from Surplus Cash Balance in connection therewith ; (3) the Commissioner be authorized to settle the the valuation of the building called "Grant House," if Government desire to purchase it ; and (4) the other pro-

	Rs.
† Removing the electric light engine-shed, engine, dynamos and fittings from the Municipal Workshops to the compound of the Crawford Markets and making temporary arrangements for lighting the markets during the progress of the works.. ..	7,600
Working the Municipal office lights during the removal of the plant ..	1,400
Removing and re-erecting the large store-room and sepoy's quarters ..	4,000
Removing and re-erecting the store-room for disinfectants.. ..	1,000
Removing the Workshops' log saw frame with shed and erecting it on another site	2,535
Grant of a monthly allowance to the Assistant Executive Engineer, Mechanical Branch, for house-rent ..	100

posals mentioned in the Commissioner's letter, be generally approved."

Carried.

RIOTS IN BOMBAY.

Riot of 1832.

A special meeting was held on 7th June 1832 when Mr. DeVitre, the senior Magistrate explained the cause of the tumultuous assemblage of natives in various parts of the Town. He also laid before the meeting a copy of a letter which he had addressed to Government on the subject together with the Advocate General's opinion and stated that since the meeting had been called, His Majesty's Regiment the Queen's Royals had marched into the Fort, by order of Government and had assisted the Magistrates in dispersing the people, but without having had occasion to proceed to extremes. The Government had also ordered the native Regiments and the Artillery to be held in readiness to aid the civil Power if necessary.

On the next day (8th June 1832) Mr. DeVitre informed the Bench that the Town continued perfectly quiet throughout the night and that he had received a letter from Government approving the measures which have been adopted, and sanctioning the offer of a reward of Rs. 500 for the conviction of any of the ringleaders in the Riot. He also informed the Bench that several persons were in custody, and that he had issued warrants to apprehend several others against whom information had been filed, and that he would proceed to deal with them as Police Magistrate as circumstances required.

To CHARLES NORRIS, Esq.,

Chief Secretary to Government.

Sir,—It is with regret I have to bring the following circumstances to the immediate notice of the Right Hon'ble the Governor in Council.

Yesterday, in pursuance of instructions recently issued in form, according to Regulation II of 1813, Article III, one of my European Constables was engaged in killing dogs within the Fort, when, after having destroyed eight or nine, he was in-

formed that it was a Parsi Holiday and that killing dogs amongst them on that day was particularly obnoxious. On this, the said Constable with great prudence immediately desisted and returned to the office. Two, however, of the European Constables who were near at hand to the former at the time he was told of its being a Holiday, but who were not engaged in destroying dogs, were then very seriously assaulted and dreadfully beaten; one in particular as will appear from the accompanying note, marked A; the man was taken to Hospital where he now lies. In about an hour afterwards, the Police Office within the Fort and the Supreme Court House were surrounded by a large and disorderly rabble, principally composed of the lower classes of Parsees, calling out that dogs should not be killed. After very considerable trouble and explanation the crowd was dispersed without resort to coercion being necessary, and things during the night remained peaceable. This morning, however, matters have assumed a more formidable appearance, as will be more particularly seen by reference to the accompanying original correspondence and as crowds of natives are collected both within and without the Fort, in view to disturbance of the public peace and preventing shops being open and supplies had as usual, and the Constabulary and Police establishment being quite incompetent efficiently to oppose such proceedings, I have earnestly to solicit the immediate instructions of Government; and were I allowed to offer an opinion, I would immediately suggest that the Queen's Royals be brought over from Colaba, and that the Artillery and Native Regiments be immediately directed to hold themselves in readiness to act under the Civil power, as circumstances may call for. At the moment of writing this, an immense crowd is most disagreeably collected both in front of my office and before the Court House. I have only further to add that the Mohurrum Holidays are now on, and that if strong and decisive measures are not immediately adopted, I apprehend serious consequences to the public peace before the conclusion of that festival on the 10th Inst.

The above facts of riot and disorder, I have laid before the Acting Advocate General, whose opinion I have now likewise the honour to enclose.

Bombay, Fort Police Office,

I have, &c.,

7th June 1832.

(Sd.) J. D. DEVITRE,

Senior Magistrate of Police.

To J. D. DEVITRE, Esq.

Senior Magistrate of Police.

Sir,—Under the circumstances which you have laid before me of public excitement and general riots and insurrection among the Parsees and others, inhabitants of this Island, their

disposition to impede the free passage of the streets, and to insult and attack with stones and other missiles, the European inhabitants and servants of Government passing therein, and as you have decidedly formed an opinion that any effort of yours to restore order and tranquillity with the ordinary Civil force under your control would prove inefficient, I feel myself as the adviser of Government authorised in this emergency to intimate to you my opinion, that it becomes your duty as the principal conservator of peace of this Island to call to your aid such a proportion of Military force of the King's and Hon'ble Company's Service as in your discretion may be deemed sufficient to effect the purpose of restoring the Island to its wanted peace and tranquillity and in case of obstinate resistance to your authority in any of the assembled mobs or their preserving in their above riotous and dangerous conduct to use such means of dispersing or coercing them as the emergencies may point out to you necessary and expedient.

G. C. IRVIN,

7th June 1832.

Advocate General, Bombay.

On the 12th June 1832, Mr. DeVitre convened a special meeting of His Majesty's Justices for the purpose of stating to them that he has reason to apprehend that the Town is not in the settled state in which it appears to be and submitted to them the expediency of their individually representing to their respective establishment and others over whom they may have any influence their expectation that they will afford them every information in their power of any circumstances tending to disturb the public peace that may come to their knowledge.

The disturbance then ceased.

Riot of 1874.

The riot of 1874 which broke out on the 13th February of that year was between the Mahomedans and the Parsees. The cause of it was reported to be due to a book published called "Renowned Prophets &c." *

Riot of 1893.

The riot of 1893 was between the Hindus and Mahomedans.

The following report was submitted by the Health Officer :—

" I first heard from the stables at Bori Bunder, Null Bazaar, and Kamathipoora of disturbances, although I knew before of the excitement amongst the people. It was reported that the scavengers and halalkhors had been driven in and the carts driven off, and that an attempt had been made to rush and wreck the Health Department stables in Kamathipura. The Assistant Health Officer and I left the office at once. My first observation of the riots was near the Market. As we came near the Market

* See Bombay Gazette dated 16th February 1874.

we met troops being hurried up and passing by Paidhoni into Bhendi Bazaar, we saw the street covered with stones and many pools of blood and many stains of gore. We now saw many evidences of the struggle—wounded men, injured Police Officers—but not until the next day, did I see any woman hurt. Walking down Bhendi Bazaar, Mr. Leask and I passed up Obelisk Road on to Grant Road through crowds, in much tumult and excitement, which told of incidents in the turbulence. The object of our visit was to keep our Halalkhores within their dwellings. As we came up, we saw excited halalkhors outside the buildings. We took them all inside the buildings and warned them to keep inside. Many of the Halalkhores had been injured, yet in excitement their chief desire was to come forth and take a greater part in the fray. Having looked at those injured, I warned the Halalkhores not to leave the open space between their dwellings. We passed up through Kamathipura, where there were still bands of rioters in the street, and we saw the destruction that had been wrought to dwellings and property. Near our stables in Kamathipura we met Inspectors Hallums and Powell. Inspector Powell had defended his stables and he kept back rioters who had tried to enter them. We found nearly 200 carts of C and B Wards, collected around Kamathipura stables for protection. Many of the drivers had been injured. Our first care was to encourage and give heart to the cart drivers and persuade them to drive back the carts through Kamathipura. It was not easy to persuade them, for we had to pass by the Two Tanks—the scene of much strife later in the evening where the rioters had to be fired on. Just before this, the Commissioner of Police—Mr. Vincent—and Mr. Acworth passed me. We took the carts down Duncan Road back to the stables in Null Bazaar. The drivers really acted well, considering the panic and the apprehensions which they not unnaturally felt. The Halalkhors would have fared worse than the Mahars, for they were the only people beaten by both—Musulman and Hindu. As one Halalkhor said he was beaten by Hindoos because he had a long beard, and he was beaten by Mussulman because he was dressed like a Hindu. Immediately after taking the carts by the Two Tanks back to the stables, we hastened to the scene of a conflagration in Byculla, and on the way we heard that our milch cattle stable had been set on fire. We found the stable on fire, but the fire was quickly extinguished. The next day the night branch cart drivers, over 200 in number most of whom are Mussulman, were beseized in the night branch stables in Kamathipura. Inspector Hallums with his staff held the stable during the night and part of the day until Military aid came.*

82 deaths were registered as having been caused by violence through the riots. That other deaths were caused through

* See Annual Report for 1893-94, also Corporation proceedings dated 7th and 11th September 1893, and 1st February 1894.

distress or apprehension, there can be little doubt. This is to be expected when—security and comfort and ease cease to be in a large city. Foolish rumours were circulated as to the number of the dead. The people who believed such rumours were not where disorder and turmoil lasted in the streets. They were safe in their homes or in distant places. To all who were in the midst of the disorder it is known that the difficulty was not to obtain information of the dead, but to remove the dead. The people in the district where disorder kept riot could not be persuaded to remove their dead—even the dead from natural causes. Dead bodies remained unburied for days. Dr. Weir writes.”—“I will give one rumour which I was questioned about after the riots; I was asked, if the Health Department had not removed dead bodies in carts—in refuse carts—and hidden the bodies underneath the cultivation of the Flats. It is incredible that such a foolish rumour should be believed, but foolish though the rumour was, it was believed.”

The question of provisioning the troops out of the Municipal Fund was considered by the Corporation in 1893 when on the 11th September of that year they passed the following resolution.

Proposed by the Hon'ble Mr. Pherozeshah M. Mehta,
 No. 5499. seconded by the Hon'ble Mr. Javerilal U.
 Yajnik—

“That, with reference to the letters as per margin, the Corporation, while fully appreciating the motives which prompted the action of the Municipal Commissioner, consider—

No. 10431, dated 21st August 1893.
 „ 10504, do. do.
 „ 11016-A, do, 28th do.
 „ 11529, do, 2nd Sept. 1893,
 „ 11800, do, 7th do.

“1. That the objects for which the payments were ordered to be made by him are not within the purview of the authority vested in the Commissioner by section 64 (3) (c) of the Municipal Act.

“2. That the question of provisioning the troops from the 12th to the 17th August last, conveying them and erecting shelter sheds, as in the letters mentioned, appertained to the responsible officers in charge of the troops.”

The Plague
 Riot.

The Plague riot took place in connection with the Plague measures of 1896. Details of which will be found at pages 195 to 197 of this book.

LIQUOR LICENSES.

The question of Liquor License fees is explained in the following communication to Government.

No. 9863.

MUNICIPAL CORPORATION OFFICE,

BOMBAY, 18th December 1899.

FROM THE HON'BLE Mr. IBRAHIM RAHIMTULLA,

President, Municipal Corporation, Bombay.

TO THE SECRETARY TO GOVERNMENT,

General Department.

SIR,—I have the honour, by desire of the Municipal Corporation of Bombay, to address to Government the following respectful representation regarding the justice of restoring to the Corporation the full revenue realized from liquor license fees and compensating them for the heavy losses suffered by the inadequacy of the compensation fixed by Section 63 of Act V of 1878.

2. To show that license fees for liquor-shops have from the beginning of the establishment of a regular Municipality in Bombay been admitted as an item of Municipal revenue, reference may be made to Act XI of 1845, which made the Justices of the Peace into a regular Municipal Corporation, established a Board of Conservancy as an executive body, and provided a regular Municipal Fund. One of the items which made up this Fund was "License fees" from liquor-shops. In Section 7 of the Act this item is described as follows:—

"All sums of money which shall be collected under Act No. V of 1842 on the granting of any licenses for the sale of spirituous or other liquors within the town and island of Bombay and Colaba, after payment thereof of the expenses of such office establishment and of such expenses incidental thereto as may be fixed and approved by the Governor in Council of Bombay."

3. Act V of 1842 was repealed by Act IX of 1867, Section 14 of which enacted as follows:—

"All money realized, collected or obtained by the issue of licenses, or by forfeitures, or by imposition or infliction of fines and penalties under this Act, shall be carried to the credit of the Municipal Fund of the City of Bombay for Municipal purposes."

4. Thus, from 1845 to 1878, up to which year Act IX of 1867 was law, the Municipal revenues had the benefit of all moneys collected on the granting of liquor licenses. Act IX of 1867 was repealed by Act V of 1873. When the latter Act in the form of a

Bill was before the Legislative Council, the Corporation, fearing the loss of revenue from liquor license fees, addressed a representation to Government for the grant of "*adequate compensation*" (Colonel Hancock's letter, No. 1590, dated the 7th December 1877, to Mr. Chief Secretary Ravenscroft), the following quotation from which will not be inapt :—

" Having regard to the last sentence in para. 1 of Government Resolution

"The Municipal Commissioner may be informed that Government are not aware that the Municipality will in any way be deprived of income to which it is equitably and legally entitled by the mere assimilation of the year for which the retail licenses in Bombay are to run to that for which licences are granted by the Collector of Bombay to toddy drawers and distillers, the object of the change of system merely being to make the revenue year commencing on the 1st August applicable to both. The proportion of fees due for the five months from the 1st August next will, when paid, of course, be credited to the Municipality as usual, if in the meanwhile such a change of system should not be introduced as to entitle it to compensation in another form."

No. 7472 (Revenue Department), dated 19th December 1876, it may appear unnecessary for me to trouble Government with any lengthened arguments in support of the claim of the Municipality to this source of revenue, but I may men-

tion that the revenue from the granting of liquor licenses has belonged to the Municipality for a period of certainly more than thirty years past, it being one of the sources of income expressly transferred to them under the provisions of Act XI of 1845. This Act extended the powers of Her Majesty's Justices of the Peace and delegated to them certain functions theretofore performed by Government itself, such as repairing, cleansing, draining and lighting the public roads, streets, bridges, tanks, market places, and other public places of a like kind, and by Section 2 the Justices were required to contribute Rs. 45,000 annually towards the cost of the Police, to maintain establishments provided for under the Act and so forth. I may further remark that, as pointed out on a previous occasion by Mr. Pedder, the late Commissioner, this is a tax, not directly on liquor, but on the monopoly value of liquor shops arising from the limitation of their numbers for Police purposes and which therefore would seem justly and equitably to belong to the revenue from which the cost of the Police force is defrayed. The tax forms no part of the general Abkari system, and it is in reality a Municipal tax levied on liquors consumed by the population within Municipal limits distinct from, and in addition to, the Imperial Excise or Custom duties levied from the inhabitants of the City in the form of Customs and Abkari."

5. It appears that on receipt of the above letter Government addressed the Municipal Commissioner, asking for a return showing the income for the previous 20 years from license-fees, &c., and inquiring under what circumstances the income was granted to the Municipality, and the grounds, if any, on which the Corporation would claim compensation. Mr. Ravenscroft, then Commissioner, in furnishing to Government certain statements which showed that the receipts from license fees from the wholesale and retail vendors of spirits and the fees for shop licenses for the sale

* 1864	Rs.	68,211	12	6
1865	"	76,722	13	8
1866	"	1,10,223	11	9
1867	"	1,06,572	3	9
1868	"	1,20,566	0	0
1869	"	2,49,077	1	5
1870	"	1,23,691	12	0
1871	"	1,15,169	15	10
1872	"	59,914	0	0
1873	"	2,79,073	10	4
1874	"	1,24,507	2	10
1875	"	1,58,980	1	0
1876	"	1,41,724	9	0
Rs. 17,34,484		14	1	

of toddy for the 13 years ending 1876 were as given in the margin,* stated, in answer to the enquiry as to the grounds for claiming compensation, that in the absence of evidence to the contrary, he did not think that "Government either would or could appropriate this source of Municipal revenue without paying a fair compensation to the Municipality." The result of the correspondence was the insertion in Act V of 1878 of Section 63

which runs as follows, and is the existing law on the subject:—

"Whereas it was provided by Section 14 of Bombay Act IX of 1867* that all money realized, collected or obtained by the issue of licenses, or by forfeitures or by imposition or infliction of fines and penalties under the said Act should be carried to the credit of the Municipal Fund of the City of Bombay for Municipal purposes, it is hereby enacted that in lieu of the money hitherto so received by the Municipal Corporation of the City of Bombay, a fixed sum of Rs. 1,43,750 shall, from and after the 1st day of August 1878, be annually paid by Government to the said Corporation for the said purposes."

The sum of Rs. 1,43,750 appears to have been fixed on an average of the net revenues derived by the Municipality in the ten years ending with 1876.

6. The Section was not passed without an emphatic protest on behalf of the Municipality in the Legislative Council. The Hon'ble Mr. Sorabjee Shapurjee Bengalee (an ex-member of the Municipal Corporation) expressed dissatisfaction at the amount of compensation fixed by Government in the following words:—

"I think it would have been advisable that the opinion of the Corporation should have been asked. I cannot see that the plan adopted by the honourable mover of taking the aggregate figures of ten years is quite correct. The rate

* Bombay Act IX of 1867 was repealed by Act V of 1878.

of fees during ten years has varied very much, and the aggregate amount per year has also varied—I mean it has increased steadily. When we find that the receipts from liquor licenses and fines have been steadily increasing, I cannot see that it is quite fair that this calculation should be based on an average of ten years. The proper plan would be to take the revenue of last year and add something for prospective increases. I do not think it is right to fix the sum to be paid by Government in future at anything less than the receipts of last year. That is my objection to the amendment."

7. The protest was ineffectual, and the section was passed. That in passing it the Government of the time had not given the least consideration to the rights of the Corporation is evidenced by the reply of the Hon'ble Mr. Ashburner to the Hon'ble Mr. Bengalee, which was in effect that though the revenue was granted to the Municipality, its amount depended on the pleasure of Government, who could at will raise or lower the license fees. This reply, it will be seen, does not attempt to justify in any way the appropriation by Government of any additional receipts from an expansion of the revenue.

8. Such is the legislative history of Section 63 of Act V of 1878. I beg leave now to give a brief resume of the attempts made by the Corporation from time to time to obtain a revision of the arrangement, legalized by Act V of 1878.

9. In 1883, in connection with the local self Government scheme then under consideration, the Government of India expressed the opinion that Municipalities should be relieved of the burden of bearing the cost of the Police since they exercised no control over the force and could not therefore be expected to take any special interest in the efficiency of the force or to look with sympathy on a provision of the law which treated them as a machinery for raising taxes to be spent on a Department over which they had no control. The Government of Bombay thereupon (in Mr. Nugent's letter No. 795, dated the 26th February 1883) proposed to relieve the Bombay Municipality of the Police charges if the Municipality would either take over equivalent burdens devolving on the provincial revenues or give up equivalent items of Municipal revenue. The annual fixed payment of Rs. 1,48,750, under Section 63 of Act V of 1878, was one of the items of revenue which it was suggested the Municipality might give up. The Chairman of the Corporation, in replying to Government, stated as follows:—

"In 1878, Government deprived the Municipality of the right of collecting and receiving Liquor License Fees in the City of Bombay—a right which was guaranteed by Law, and enjoyed by the Corporation for many years. For this source of revenue, which had been steadily increasing for many years, Government granted inadequate compensation to the Municipality by striking an average of

the income realized in seven years up to 1878. This fixed compensation amounts to Rs. 1,43,750 per annum, whereas the average of collections for 3 years up to 1876 amounted to Rs. 1,63,706, and the average of three subsequent years amounted to Rs. 2,02,246-12-0. Some idea of the loss sustained by the Corporation will be formed from the fact that Government realized a profit of Rs. 1,73,242-8-0 in three years ending 1881, or more than Rs. 2,50,000 up to last year.

“ Having regard to the inadequacy of the amount of compensation paid to the Municipality under the terms of Section 63 of Bombay Act V of 1878, in lieu of the receipts from the Liquor License Fees enjoyed by the Municipality up to 1878, the Corporation are respectfully of opinion that, in making the adjustment of charges between Government and the Municipality in regard to the new scheme generally, due regard should be had to the heavy loss of revenue suffered by the Corporation consequent on the operation of the said Act, and they therefore beg to ask Government to move the Bombay Legislative Council to sanction such amendments in the said Acts as will ensure to the Municipality the full amount of the revenue realizable from the sale of Liquor Licenses in the City of Bombay, and from the levy of fines and penalties in connection thereto for Municipal purposes, and to vest the entire management and regulation of the Liquor License Department in the Municipal Corporation.”

10. To this Government replied that they were not then prepared to express any opinion regarding the proposal to transfer to the Municipality the control of the issue of Liquor Licenses.

11. In writing again to Government on behalf of the Corporation the Chairman recurred to the subject and expressed the hope that, in the final arrangements to be made, Government would be pleased to take such steps as they might think fit for the amendment of Section 63 of Act V of 1878 so as to allow the full control of Liquor Licenses being given to the Municipality and the full proceeds from those licenses being credited to the Municipal Fund—an amendment which, it was pointed out, would be of substantial benefit to the Corporation, having regard to the fact that in 1883-84 the actual receipts by Government were Rupees 35,979 more than the amount paid over to the Municipality.

12. This representation again met with a refusal. The Governor in Council “ as at present advised ” was not disposed to consider that the Corporation had a right to insist upon an increase in the amount of compensation. It was added, however, that a Bill for the amendment of Act V of 1878 was under consideration and that when that Bill was introduced into the Legislative Council, the Corporation would have every opportunity of giving expression to their views on the subject.

13. This promised opportunity unfortunately never came. No Bill to amend Act V of 1878 appears yet to have reached the Legislative Council, and the Corporation have continued to receive year after year a compensation in no way commensurate to the heavy loss inflicted on them by the enactment of Section 63.

14. The Corporation memorialized Government again in 1890. It was pointed out that whilst the revenue to Government from Liquor Licenses was nearly 3 lakhs a year, Government paid the Corporation less than half that sum, and Government were asked on the following among other grounds to make such equitable alteration of the law as would enable them to concede to the Municipality a yearly sum which would fairly represent the average revenue derived :—

“(1) That consequent on the action of the Government of India in reducing the duration of the Tansa Water Works Loan and all future loans from 60 to 40 years, half a lakh per annum more than was originally agreed to has to be provided for the Sinking Fund of the Tansa Loan and about one half per cent. for the Sinking Fund charges of all future loans.

“(2) That the Town Duty on Petroleum, which was estimated to yield one lakh of rupees, was abolished as a Municipal duty from 1st April 1889.

“(3) That there is a probability of the Municipality being called upon at no distant date to make a large contribution towards additional Police Charges.

“(4) That the drainage, street improvements, market extensions and further improvements of the City are expected to involve a large outlay to the Municipality.

“(5) That the loss to the Municipality from 1878 to end of last year has been nearly $1\frac{1}{2}$ lakhs and will in future involve a loss of more than $11\frac{1}{2}$ lakhs a year.”

To this pressing appeal the answer of Government was that they saw no reason for increasing the compensation fixed by law.

15. The Controversy with Government on the Police charges was renewed in connection with a proposed increase to the force, and the inadequacy of the compensation for liquor license fees was again represented as follows in the Corporation's Memorial to the Government of India, dated the 6th August 1891 :—

“The inequality and injustice of the treatment under which the ratepayers of this City have laboured ever since 1865 has been much aggravated by the arbitrary manner in which the Bombay Government have deprived them of the full proceeds of one of their local sources of revenue, *viz.*, fees for liquor licenses. These fees were a source of Municipal revenue, certainly as far back as 1845 and probably for more than 30 years earlier. But in 1878,

Government passed a Local Act, by a provision in which they ostensibly proposed to give a lump sum as fairly representing the amount of the revenue by taking an average of the seven previous years. In reality, they confiscated a great portion of it. * * * How detrimental to the Corporation this appropriation of an ancient source of revenue on such terms has been may be seen from the following figures extracted from the Bombay Presidency Administration Report:—

Revenue derived from Liquor License Fees by Government.

					Rs.
1878-79	...	...	...	...	1,51,500
1879-80	...	...	...	...	2,16,595
1880-81	...	...	...	...	2,33,797
1881-82	...	...	...	...	2,25,000
1882-83	...	...	...	...	2,25,064
1883-84	...	...	...	...	2,56,000
1884-85	...	...	...	...	2,63,230
1885-86	..	...	...	...	2,55,192
1886-87	...	...	...	...	2,97,801
1887-88	...	...	...	...	2,92,844
1888-89	...	...	...	...	2,92,559
1889-90	...	...	...	..	3,01,888

Rs. 30,11,420 "

The Corporation has more than once appealed to Government, notably in 1884, for redress in respect of so grievous an injustice. The only reply they have ever obtained from Government was to the effect that 'as regards the proposed amendment of Section 63 of Bombay Act V of 1878, the Governor in Council, as at present advised, is not disposed to consider that the Corporation have a right to insist upon an increase in the amount of compensation for the loss of liquor licenses provided in that section. A Bill for the amendment of Bombay Act V of 1878 is, however, at the present moment under the consideration of His Excellency the Governor in Council, and when that Bill is introduced into the Legislative Council the Corporation will have every opportunity of expressing their views on the subject.' That opportunity has, however, never come.

16. Not succeeding with the Government of India either as to the Police charges, the Corporation appealed to Her Majesty's Secretary of State for India in Council and their memorial of 22nd October 1892 referred to Liquor License Fees in the following terms:—

"The Liquor License Fees are a purely local source of revenue. They are in fact a shop tax, levied because a limitation of the number of liquor-shops is required in the interests of the safety and order of the community. That limitation gives the shops which are permitted to exist a

monopoly value and the tax is or ought to be the measure of that value. These Liquor License Fees are a very ancient source of local revenue. They probably existed as such from 1812, certainly from 1845. In 1878 Government under the Abkari Act of that year appropriated them, assigning to the Corporation an annual payment in lieu thereof of Rs. 1,43,750. The yield of the fees has ever since 1878 exceeded this amount and is now more than double. The exact facts and figures are set forth in paragraphs 9 and 10 of the Memorial to the Government of India, dated 6th August 1891. Government say in their letter, No. 4520 of 24th August 1891, to the Government of India, paragraph 8, that they 'see no advantage in going behind the final decision of the Legislature.' To be sure it would not be to the advantage of Government to go behind it, but it would be very greatly to your memorialists' advantage, and considering that the 'final decision of the legislature' is the very thing of which they complain, and considering also that hopes of an opportunity for redress have been held out to them by Government (*vide* concluding part of paragraph 9 of Memorial to Government of India) they humbly trust Your Lordship will institute an inquiry on the subject, and if the facts which your memorialists state are established, that justice may be done to them in the matter."

17. The Secretary of State's reply to the Memorial was that his Lordship was unable to admit the validity of the grounds on which the Corporation claimed to be relieved of *all pecuniary* liability for the City Police. It gave no decision with regard to the Liquor License Fees.

18. In 1891, while the controversy on the subject of Police charges was preceeding, the Corporation had also occasion to address Government on the subject of the cost of primary education and the opportunity was not omitted to again press their long standing grievance in regard to Liquor License Revenue on the attention of Government. For instance, in Mr. President Murzban's letter No. 13111, dated the 14th March 1891, it was urged that if primary education was to be made a local charge, the Corporation should be relieved of all but local burdens and should be reinstated in possession of all local revenues. "In that case the Corporation would ask Government to free them from the cost of the Police and make over to them the full revenues of the liquor and tobacco licenses with the heavy arrears which they have so often claimed in vain from Government." The reply of Government to that letter made no reference to Liquor License Revenue.

19. From the above account, it will be seen by H. E. the Governor in Council that the Corporation has, in the score of years which have elapsed since Act V of 1878 became

law, lost no opportunity of seeking redress for what they genuinely believe to be a serious injustice perpetrated by Section 63 of that enactment. In their Resolution No. 7472, dated the 19th December 1876 (Revenue Department) Government themselves admitted that the revenue from liquor license fees was an income to which this Municipality was equitably and legally entitled, and an assurance was conveyed that this income would not be taken away. This assurance the Government of the time did not fully observe, and the Municipality was deprived of the benefit of all expansion of the revenue that could, in the course of years, have been looked for—to which also it was equitably, and, before the law was altered, legally entitled. As a matter of fact this revenue has very considerably grown since 1878, and the Municipality has lost and continues to lose a large sum annually in the difference between the compensation fixed by Act V of 1878, and the actual sums realized from year to year. The Governor in Council in the course of all the correspondence that has taken place on the subject has, I am asked respectfully to point out, never favoured the Corporation with any explanations, reasons or arguments in justification of the deprivation. So far as the Corporation can judge Government appear never to have given any serious consideration to the merits of their complaint. I am therefore desired to once more press the matter most earnestly on the attention of his Excellency in Council and invite a reconsideration of the representations from time to time made and the arguments advanced in them, and to request that Government may be pleased to take account of, and recoup to the Municipality, the whole of the loss inflicted on it by the inadequate compensation fixed in 1878, and also take the necessary steps for securing to them the full revenues which may be realized in future.

I have the honour to be,

Sir,

Your most obedient servant,

IBRAHIM RAHIMTULA,

President, Bombay Municipal Corporation.

The following was the reply :—

To the President, from the Secretary to Government, Revenue Department, No. 4150, dated the 2nd July 1900 :—

“I am directed to acknowledge the receipt of your letter No. 9863, dated 18th December 1899, to the address of the Secretary to Government, General Department, containing a representation regarding the justice of restoring to the Bombay Municipal Corporation the full revenue realized from liquor license fees in the City of Bombay, and compensating them for the heavy losses suffered by the inadequacy of the compensation fixed by Section 63 of the Abkari Act, V of 1878.

" 2. In their present application the Bombay Municipality, after mentioning that similar applications have been made to Government in the past, represent that Government have never favoured the Corporation with any explanation, reasons or arguments in justification of their action in depriving the Municipality of the revenue from liquor shop licenses, and in granting as compensation for that revenue a subsidy which the Corporation has never regarded as adequate. The Corporation, however, appear to the Governor in Council to appreciate somewhat imperfectly the consequences of the fact that the revenue in question was transferred to the Imperial exchequer by operation of law, and that the amount of the annual subsidy had been finally fixed by the Legislature when converting the excise revenues in question from a Municipal into an Imperial asset. The attention of the Municipality has already been drawn to the law, and Government have informed the Corporation that the settlement was final, and have expressed their inability to re-open former accounts. No further answer to the complaints of the Corporation seemed to be required. There appeared to be no necessity for Government to argue from first principles whether the action of the Legislature of 1878 was proper or improper. In deference, however, to the evident wish of the Corporation, I am directed to indicate briefly the principles upon which the subsidy was fixed by Government and the Legislature, and the views of the Governor in Council regarding the argument urged in the letter under reply.

" 3. That argument appears to be that because revenues from liquor license fees have increased since the time when those receipts, which were previously credited to the Municipal Fund, were commuted in return for an annual subsidy, therefore the amount of the subsidy should be increased. In relying on this argument the Municipality overlook the fact that the settlement of 1879 was intended to be final, and that indeed, finality is and must necessarily be regarded as an essential feature of any settlement of this nature. The fact that revenue has increased since the time of the settlement would in any case have been irrelevant in considering the fairness of the settlement, but the irrelevancy is in the present case accentuated by the fact that the increase of revenue since the time of the settlement has been obtained under a new system of excise administration.

" 4. If the commutation made by Bombay Act V of 1879 of Municipal receipts from liquor shop licenses in return for an annual subsidy had been made with the consent of the Municipality, it is improbable that doubts regarding its fairness would have subsequently been expressed. But though the consent of the Municipality was not asked for or obtained to the Legislation in question, it cannot be disputed that the Legislature has the right to revise from time to time a Municipal schedule of taxation, and declare which items of revenue shall thereafter be regarded as Imperial and which as Local assets. The Legisla-

ture of 1879, in converting a Municipal asset into an asset of excise revenue, was not overstepping its province, and in point of fact, there was no obligation to give any compensation whatever. Compensation was given as an act of grace, and in fixing it, the problem before the Legislature was to determine on the materials then available what amount of compensation would be adequate to recompense the Corporation for the revenue which they had been receiving up to that time, and under the existing system of administration. The Legislature did not attempt to determine, nor in the opinion of Government was it their business to determine, what additional revenue might perhaps afterwards have accrued under a new system of administration.

“ 5. The above explanation of the views of Government has been given in deference, as above stated, to the wishes of the Corporation, and not with the view of provoking further controversy or discussion regarding a settlement which was sanctioned nearly twenty-two years ago, which was adopted by and embodied in an Act, of the Legislature, and which was intended then to be, and must now in the opinion of the Governor in Council be, regarded as final.”

This letter was recorded and the consideration thereof postponed *sine die*.

VISIT OF HIS ROYAL HIGHNESS, THE
PRINCE OF WALES (NOW KING
OF ENGLAND) TO BOMBAY.

On the 8th November 1875, His Royal Highness, the Prince of Wales (now King of England) arrived in Bombay. The whole City was *En fete*. The address of the Corporation was read by Mr. Dossabhoy Framji. On the 9th November, the anniversary of H. M.'s birthday there was a general and most beautiful illumination of the City. A levee was also held at the Secretariat. There was a school children's treat, Ball at the Byculla Club and numerous other festivities at which His Majesty was present.

REMOVAL OF WATER FROM PUBLIC WELLS.

In the year 1890, the Corporation considered letter No. 3257 dated 21st May 1890, from the Municipal Commissioner requesting sanction to the levy of fees for permission to remove water from public wells. The following was the opinion of the Municipal Solicitors thereon :—

Letter, dated 7th May 1890, to H. A. Acworth, Esq., C. S., Commissioner as under :—

SIR,—We have the honor to acknowledge the receipt of your letter No. 2101 of the 5th May, in reference to a fee being charged for the right to remove water from dipping wells by Bhisties in masakhs, and to the ruling of the President, upon Mr. Charles' proposal to settle a scale of fees in respect of written permission under section 269 (3). No papers were received with your letter. Section 171, which provides that no tax or charge of any kind shall be levied or demanded for the use of water in or from any drinking fountains, &c., expressly provides that the use of the water shall be limited as prescribed in sub-section 3 of Section 269, after providing the purpose for which only water shall be carried away for "private use and not for sale" makes provision under certain restrictions for its being carried away (presumably otherwise than for private use) in a cask, cart, pakhal, or masakh, viz., with the "written permission" of the Commissioner. It must be presumed that the Legislature were aware when they passed section 171 and 269 (3) that by section 479 (2) a fee might be charged for every "written permission" at such rate as should from time to time be fixed by the Commissioner with the sanction of the Corporation, nor is this inconsistent with section 171 which relates to a *tax for the use of Water* for private purposes, whereas section 479 relates to a fee payable for obtaining a special privilege.

For the reasons above stated we are of opinion that the ruling of the President referred to, in your letter under reply, cannot be sustained.—

We have, &c., CRAWFORD, BURDER & Co.

The fees proposed to be levied were Rs. 2 per masakh per mensem, Rs. 3 per Bullock with pakhals and Rs. 10 per cart. On the motion of the Hon'ble Mr. R. M. Sayani the proposal was negatived.

LICENSE FOR STORAGE OF SPIRITS.

The Government of Bombay under their Resolution No. 3469, General Department dated 30th August 1890 decided that it was undesirable for reasons explained to levy a fee by the Municipality for permission to store spirits.

SECURITIES FURNISHED BY MUNICIPAL EMPLOYEES.

A list of securities to be furnished by Municipal employes will be found in the proceedings of the Corporation of 15th June 1891.

ADULTERATION OF DRUGS, FOOD AND DRINK.

The Committee of the Corporation reported on 20th December 1900, on the subject of adulteration of drugs, food and drink in the City. The suggestions made therein were referred to the Municipal Commissioner for report.*

HYDROPHOBIA.

On 18th June 1900, the Corporation considered the following Letter from the Under-Secretary to Government, in the Judicial Department, No. 317-M., dated the 14th May 1900 :—

“I am directed to acknowledge the receipt of your letter, No. 1153, dated the 28th April 1900, on the subject of legislating with a view to protect the public from the danger of dog bites, and in reply to state that the matter is now engaging the attention of Government in connection with the proposed amendment of the Police law applicable to the Town and Island of Bombay.

“2. I am to add that the preparation of the draft Bill to amend the Bombay City Police Act will be pushed forward with the least possible delay.”

The letter was recorded.

PASTEUR INSTITUTE OF INDIA.

On 6th December 1900, the Corporation on the motion of the Hon'ble Mr. P. M. Mehta, C. I. E., passed the following resolution :—

“That in reply to his letter dated 26th October 1900, applying for an annual subscription, the Honorary Secretary, Pasteur Institute of India, be informed that the Corporation are unable to comply with the request.”

* See Corporation record for 15th February 1901.

THE MUNICIPAL ELECTION.

OPINION OF COUNSEL.

The Corporation having asked for the opinion of Counsel, on the question as to whether the vacancies caused by the setting aside of the elections of Dr. Viegas and Rao Bahadur V. K. Vandekar may be filled before the "new" Council comes into office on the 1st April, or whether the appointments must be made thereafter, Mr. J. D. Inverarity and Mr. Basil Scott jointly submitted the following opinion:—

"We are of opinion that the vacancies, if they are to be filled up by the Corporation, must be filled up within 15 days after receipt of the Commissioner's letter of the 13th day of March 1901 in default thereof a fresh election must be held. The Corporation will have no power to fill up the vacancies after the first April as the 15 days will have elapsed. We are of opinion that he would have been wrong if he had not given information without delay, and we think the Commissioner would have been wrong to wait till the 1st April before he gave information. The Municipal Secretary would have been quite wrong if he had treated the information as information to be acted on by the Corporation after the 1st April. We differ from the opinion of Mr. James Jardine. We have carefully considered the arguments of the supporters of the opposite view to the one we take as reported in the newspaper report furnished to us—and we think that the view and the arguments in support of it are based on the fallacy that there is a Corporation which ceases to exist, and a new Corporation which comes into existence on the 1st April,—a fallacy which is repeated in the form of the questions which are put to us. The truth is that there is no new Corporation, and no old one. The Corporation after the 1st April will be the same legal "persona" as exists now. There is no break whatever in its existence. The Councillors who composed the Corporation, no doubt, will not be the same body of individuals after the 1st April as they were before, but that fact does not cause any change in the legal body "the Municipal Corporation of the City of Bombay" to whom the right of filling these vacancies is entrusted by Section 34. Bearing this in mind the Commissioner's duty is to "without delay" inform the Corporation of the circumstances; he has nothing to do with the question of what individuals that body is composed of. Having performed his duty, the Corporation has 15 days in which to fill up the vacancies, and provided the 15 days had not elapsed they could fill up the vacancies after 1st April if they had not been filled up before that date; *e. g.*, suppose the Commissioner gave information on 28th March and the Corporation had not filled up the vacancies by the 1st April, it

would be open to the Corporation to fill them up after that date within 15 days from the date of receipt of the information.

The words "the Corporation so far as it may be constituted" in Section 34, in our opinion do not support the contention opposed to our view. They are introduced merely to avoid any argument arising on Section 5 of the Act to the effect that unless there are 72 Councillors, there is no properly constituted Corporation; one of such cases would be where no Councillor is elected to fill a casual vacancy. The argument based on these words is that they show that the Corporation means the incomplete Corporation (because there will not be 72 Councillors) which comes into existence on the 1st April. Now if a Councillor had died on the 12th March, then, according to the argument, the letter of the 13th March of the Commissioner would have been addressed to an incomplete Corporation, and the words of the Act would have been satisfied. In our opinion the words quoted merely mean "whether the whole 72 Councillors are in existence or not." The Corporation exists whether the full number of Councillors are there or not—there is no such thing as a new Corporation or an incomplete Corporation. The same Corporation which is in existence now will be in existence after the 1st April, whether there are vacancies among the Councillors or not, and whether the individual Councillors remain the same or change. To that Corporation the Commissioner has to give information "without delay," and any action taken on such information must be taken if at all, within 15 days of its receipt. As regards the argument that a Councillor unseated for some personal malpractice would be able to vote for himself—we think that the legislature probably thought that this would not be a matter of any practical importance as the other 71 Councillors would no doubt vote against him. We have no doubt whatever on any of the points involved in the questions which have been put to us. They seem to us to be unarguable once you get rid of the idea that a new Corporation comes into being on the 1st April."

On the 7th March 1901, Mr. C. W. Chitty, Chief Judge of the Small Causes Court, delivered judgment in the case in which Mr. Karamali Pirbhoy, one of the unsuccessful candidates for the ratepayers elections of the Mandvi Ward, had petitioned for an order to set aside the election of Dr. Accacio G. Viegas and Rao Bahadur Vithalrao Krishnaji Vandekar, on the ground of personation and corrupt practices.

In a lengthy judgment Mr. Chitty set aside the election of both the gentlemen.*

* For the full text of the judgment, see *Bombay Gazette* dated 8th March 1901.

The Commissioner forwarded for the information of the Corporation a copy of the orders passed by the Acting Chief Judge of the Small Causes Court in the Election appeal filed by Mr. Karmali Peerbhoy against Mr. Abdul Karim Noor Mahomed Sulleman. In the circumstance the Commissioner stated that it was for the Corporation to take such action as they might deem necessary under section 34 of the Act.

The Hon'ble Mr. Mehta in reference to this matter said he would follow the procedure which the Corporation followed on the former occasion so that all parties might have their views represented. He therefore moved that the letter be recorded and the Corporation do proceed to make an appointment under section 34, clause 2 of the Municipal Act. That would in the first place enable the Corporation to decide whether they would proceed with the election or not. On this occasion he contended there could be no two opinions as to the desirability and the propriety of the Corporation proceeding to make the election themselves. He reviewed the history of the case arising out of the general election when on appeal to the small Causes Court two candidates were unseated for misconduct by their agents. When the matter came to the Corporation they practically sent back the candidates to the Mandvi rate-payers as an exceptional and special case. Unfortunately after the contest there was the same resort to the Small Causes Court. He was very glad to know that Dr. Viegas had succeeded in passing, but another gentleman had been unseated because his agent was guilty of misconduct. There could be no difference of opinion that in these circumstances the duty imposed upon the Corporation by the Legislature must be discharged. It would be extraordinary if they were to send men back to the electorate again and again. He understood that some electors of Mandvi Ward had signed a petition asking the Corporation not to discharge the function which had been given them but to return the matter to them. With every respect to the gentlemen who had ventured to sign the petition all he could say was that they at least had no right to ask the Corporation to do anything of the sort. The electors had the opportunity which the Legislature gave them and a second time they had the opportunity and they asked for the third chance. He supposed they would come a fourth time and they might have another petition signed by ratepayers. He did not suppose there had been a meeting of the ratepayers, somebody had written the petition and whoever had written it must have signed it. It was not for the electors of the Mandvi Ward to tell the Corporation to send the matter back to them.

Sir Bhalchandra Krishna seconded the motion.

After discussion the motion was carried by 30 votes against 21 votes.*

The election was proceeded with. There were two candidates *viz.* Professor Muller and Mr. Vandekar. The latter was elected.*

* See Corporation Record for 1900/01.

SPEECHES AT MEETINGS.

At a Corporation meeting held on 19th August 1901, Mr. Kazi Kabiruddin moved: "That no Councillor shall speak for more than ten minutes on the original motion or for more than five minutes on an amendment. That the movers and seconders of the original motion be excepted from the operation of this rule." Mr. Kazi in support of his motion said that the London County Council had got such rules in their bye laws and the Bombay Corporation should also adopt some such rules to expedite their work. They had not yet finished the July Agenda. The single question which they discussed last month, would justify the necessity of such rules being adopted.

Mr. S. D. Khote seconded the motion.

Mr. Aitken said he quite agreed with the mover in giving unlimited time to the proposers, but he did not know why the seconders should be allowed the same privilege.

Mr. Jehanghir B. Petit moved an amendment that in the second line after the word "speak" in the original motion the following words be added:—"except by leave of the majority of the members present."

The amendment not being seconded, fell through.

Mr. Hassambhoy Visram supported the proposition which, he said, would stop many childish speakers (laughter).

Mr. P. M. Mehta, who opposed the motion, said he hoped Mr. Kazi would exercise common sense. It was unsafe to move a resolution of that sort in view of a recent single instance. Mr. Mehta's experience of the Corporation was that it was a more practical and sober body than any other body of equal importance in the world (Hear, hear). It was said that the Corporation had been talking much and doing no work, but he entirely disagreed with such opinion. On the whole the Corporation was doing much practical work in as short a time as possible. He hoped that Mr. Kazi would see his way to withdraw the motion.

With the permission of the meeting, Mr. Kazi withdrew his motion.

THE TRAINING OF SANITARY SURVEYORS.

A Government resolution in the educational department, dated Bombay Castle, 27th November 1901, notifies that a Class will meet in Bombay early in January next for instruction under the Executive Health Officer, Bombay Municipality, in practical and theoretical sanitation. The class will consist of 12 men, 8 of whom shall have passed the L. C. E. Examination from the College of Science, Poona, and 4 the L. M. & S. Examination from the Grant Medical College, Bombay. The fees for tuition of all the candidate will be paid by Government.

The course of instruction will last for 6 months and will terminate with an examination to be held by the Health Department, Bombay. A diploma in Sanitary Science will be granted to successful candidates in this Examination. For all purposes of instruction and discipline students in the class will be directly under the authority of the Executive Health Officer, Bombay Municipality.

Stipends.—During the course Government will grant stipends of Rs. 25 per mensem to 6 of the students of the class, 4 of these stipends being granted, to L. C. E. and 2 to L. M. & S. candidates. The payment of these stipends will be conditional on satisfactory progress in the course.

Examination Fees.—Each candidate will be required to pay an examination fee of Rs. 25 before being permitted to appear at the final examination.

Selection of candidates will rest with the Principals of the Grant Medical College for L. M. & S. candidates and College of Science, Poona, for L. C. E. candidates subject to the approval of the Surgeon-General and the Director of Public Instruction, respectively. Application for permission to attend the class should be made to the Principals of the Colleges concerned on or before 10th December. The actual date on which the class will meet will then be notified to selected candidates.

The following statement shows the number of buildings rebuilt on sites previously built upon :—

Wards,	No. of buildings rebuilt on sites previously built upon since the passing of the Municipal Act of 1888 till 1899.	No. of buildings in respect of which all or any of the provisions of Section 348 of the Municipal Act could not be enforced.
A	26	13
B	118	47
C	209	103
D	190	58
E	146	95
F	49	49
G	73	10

MARKETS.

The Green
Market.

On the 5th May 1809, Government gave up the Green Market to the Justices and it was then left open for the free use of all vendors of vegetables, fruit and flowers. The following notice was in consequence issued:—

Vegetable Market.

1809

The Honorable Jonathan Duncan Esqr.,
Governor &c. &c.

NOTICE.

“ This market is appropriated solely for the sale of vegetables, fruits, and flowers, open to all description of persons dealing in those articles free from all tax, fee, dustoor, or other emolument whatever.”

Previous to the year 1865, the Bench of Justices, possessed the following properties which were called markets, but yielded no revenue.

Markets in
Bombay in
1865.

- 1st. The *Green or Duncan Market*, Sheik Memon Street on which stood a few range of low tiled open sheds indifferently paved and drained, very crowded, hot, and dirty, containing about 1300 square yards.
- 2nd. The *Bori Bundar Mutton and Fish Market* about a quarter of a mile from the green market, containing 2480 square yards including a yard belonging to the mutton slaughter house close by. This yard was lined with low tiled pent houses, affording no shelter whatever either to vendor or purchaser, the whole being unpaved.
- 3rd. The *Beef Market* which was in the yard of the slaughter house in Butcher street, about midway between the Green and Mutton Markets. This contained 756 square yards, badly paved, with low tiled pent houses as in the mutton market.

These three places and some dens forming a private market in Syed Abdul Rahman Street, were the first class markets.

The second class markets were the Null Bazaar near the Erskine and Duncan Roads, they comprised :—

- (a) The Mutton and Fish Market, containing 1707 square yards.
- (b) The Vegetable Market containing 2631½ square yards.

Both markets were unpaved and consisted merely of a few ranges of low narrow sheds surrounded by a rough wooden palisade.

There was a small enclosure of a similar kind in Mody Street for the provision of the Northern Fort, which was constructed in 1847 at a cost of Rs. 1655.

Referring to these markets the Municipal Commissioner in his annual report of 1867 states :—

“ Looking at the first class markets, however (Nos. 1, 2 & 3) I perceived that it was impossible to improve them and to provide adequate accommodation in so crowded a locality. I was aware also that certain public improvements would lead to the speedy abolition of the market No. 2 and I was most anxious to separate the meat markets from the slaughter houses and to remove the latter out of the town. I therefore determined to construct entirely new general markets. That part of the Esplanade lying immediately adjacent to these three markets appeared a most favourable situation, because it was close to all the three existing first class markets and also to the Railway by which the meat, and much of the fruit and vegetables, are brought to Bombay. I accordingly applied for, and obtained from Government the fine site now being built upon, containing about 72,000 square yards. The site was presented by Government to the Municipality on the understanding that general markets should be at once commenced.

Arthur Crawford
Markets.

“ In planing the new general markets I had the following points to provide for in order that these markets might be generally resorted to by all classes and castes.

“ Fruit and Vegetables &c. must be sold alone under one roof, unpolluted by meat of any kind ; and beef must not be sold under the same roof with mutton and fish. Then again the meat and fish markets must of course be to leeward of the fruit and vegetable markets and yet as close as possible to the Railway by which the meat would arrive. Then again the dealers of the fruit and vegetable market (No. 1) being wholesale as well as retail, dealers would require storerooms adjacent to the market.”

Having failed to obtain suitable designs in England, Mr. Emerson was commissioned to prepare one which was adopted.

The fruit and vegetable market was opened on 16th January 1867; the mutton and fish market was completed and opened in 1868; the beef market was opened in 1869.

Associating
Mr Crawford's
name with the
Esplanade
Market.

At a meeting held on 26th April 1868, on the motion of Dossabhoy Framji Esqr., seconded by Captain Hancock, Mr. Crawford's name was associated with the Esplanade Market.

Null Bazaar
Market.

The Null Bazaar Market was completed and opened in November 1867. A similar building was completed and opened in December 1867 over the site of the vegetable market admeasuring $140 \times 120 = 16800$ square feet. It contained 384 stalls.

Fort Market.

The above two buildings at Null Bazaar then cost Rs. 1,36,000. The extension of the Erskine Road Market by the addition of 175 stalls was sanctioned in 1887-88 and the work completed at a heavy outlay. The Fort Market was constructed during 1867 on Municipal ground and contained 100 stalls.

The first levy
of stallage
fees.

Market strike.

The Bhulesh-
war Market.

On the 1st January 1866, the market dealers were called upon to pay rent for their stalls. The Bench had however decided that the right of occupancy for the year was to be sold by auction. This decision gave great offence to the market dealers and they resorted to a strike. In three days however the strike came to an end. The private Vegetable and Fruit Market at Bhuleshwar was burnt down in 1868. With the sanction of the Bench the site was purchased for the erection of a public market. This market has since been improved by the erection of a New Market of larger dimensions.

Extortion by
Market em-
ployes

The system of fraud and extortion carried on by many of the members of the Market and Slaughter House establishment came to light towards the end of 1874. Two men, one a dismissed market peon, the other a meat seller in the Market reported to Mr. Pedder (the then Municipal Commissioner) what they knew of it. The information received from these men, was privately tested by Mr. Sorabji N. Cooper and Mr. Edulji Rustomji. As soon as the Municipal Commissioner was convinced of the facts alleged, the matter was placed in the hands of the Commissioner of Police.

The charges grouped themselves under three heads— Illicit exactions from the butchers at the Bandora Slaughter Houses for improperly passing bad meat, or by threats of condemning good meat, similar exactions from the butchers and dealers in the meat markets in Bombay ; and exactions from the various costermongers, fish sellers, and other petty dealers in the Bombay Markets who did not hold stalls at fixed rents, by threats of annoyance or under pretence of showing favour.

Although of the existence of a general and organised system of fraud and extortion there was no doubt whatever, yet it was a matter of no small difficulty to bring home to each of the accused the fact necessary for his conviction of his having, at some particular time and place and from some particular person, illicitly exacted a particular sum of money. This being so, the general success of the prosecutions was no doubt very satisfactory, and shows that the cases were got up with much care. Two overseers and five peons were tried before the Full Power Magistrate, Tannah ; and of these men, five were convicted and sentenced to various terms of imprisonment and to fine. Two overseers and 26 peons were charged before the senior Magistrate and of these 18 were finally convicted before the High Court. On taking up the enquiry, the Municipal Commissioner suspended both Mr. Higgins (the Superintendent of the Markets) and Mr. Webb (the Slaughter House Superintendent). Nothing whatever came out against them in the course of the Police investigation which would have justified in their being placed before a Magistrate. A special departmental inquiry was however held to ascertain if they were in any way implicated in the misconduct of their subordinates. The result of this inquiry completely, exonerated both the Superintendents from any suspicion of dishonesty or of guilty complicity with their subordinates, nor were they culpably neglectful or careless in the discharge of their duties, but they reposed undue confidence in plausible subordinates, an error for which they were both punished by a long suspension and heavy loss of pay.

On the night of January 28th 1888, the godowns in the compound of the Arthur Crawford Markets were burnt, the fire being probably due to careless bidi smoking, though the exact cause was not discovered. The dam-

Prosecution
of Market
employees.

Fire at the
Arthur Craws
ford Market.

age to the Municipality amounted to about Rs. 31,000 which amount the Corporation sanctioned for the reconstruction of the building.

In regard to the purchase of the site of the Moombadevi Vegetable Market, the following discussion took place:—

Mr. Crawford moved—

Vegetable
Market at
Moombadevi.

“That the Commissioner be authorised to purchase from Venayekrao Juggonathjee Sunkerset, Esq., the site of the Moombadevi Vegetable Market recently destroyed by fire, measuring 588 square yards, at Rs. 75 per square yard, total price Rs. 44,100 and to erect thereon a vegetable market at an estimated cost of Rs. 20,900, in all Rs. 65,000, and that the said sum be raised in addition to the market loan sanctioned at the late Budget Meeting.”

The motion was seconded by Dr. Birdwood and carried (26-4-68.)

The Pedder
Market.

The Mazagon Market was constructed to meet the wants of the residents of that locality. It cost Rs. 37,000 or thereabouts and was named after Mr. Pedder, the then Municipal Commissioner.

The Sheep
Market at
Byculla.

A petition dated 20th January was read by the Clerk of the Peace with regard to sheep-selling in Bombay. The petitioners set forth, that for more than fifty years the Esplanade had been the seat of their sheep market in the city. In 1867 they received an order to remove it to Byculla, and quietly did so; and on receiving a similar order within a year, they removed it to Bandora. But this was so far distant from the city, that the petitioners suffered great loss by the want of customers, and then, too, further loss was occasioned by consumers going to Bandora, and purchasing sheep from those who brought them thither. Therefore, the petitioners made a strong appeal to the Commissioner, that he would protect the business they had enjoyed for the last fifty years, and thus secure to himself the blessings of them and their families for ever and ever.

This had been addressed to the Municipal Commissioner. Dr. Hewlett replied to the following effect:—“That their flock of sheep were found to be a nuisance on the Esplanade, and accordingly the authorities directed that no more sheep should be grazed there. The petitioners were not ordered or told to go to Byculla—they were advised to go to Bandora, or where there was abundance of room for them, and where the butchers, who used to purchase from them, were employed. They chose themselves to stay at Byculla, hoping to sell to many persons who kill privately in their houses and were liable to a heavy punishment for doing so. He hoped they had suffered loss, and that they would yet suffer more loss for encouraging people to break the law. The sheep hokka or market was, as they very well knew, held at Bandora, and they should go there.”

Another petition was read, dated 6th February, addressed to the Bench of Justices, in which the petitioners stated the same case, and added, that they used to sell sheep on the Esplanade, and at Byculla, to private individuals for religious or domestic ceremonies, and not to any butchers. They submitted that no nuisance was thereby produced, nor, as they believed, had any complaint been lodged by the neighbouring inhabitants. They concluded by praying the Bench to allow them to sell sheep at Byculla, on receiving a fee of one anna per sheep, instead of 16 pies for 20 sheep, as formerly.

A report on this petition by Dr. Hewlett to the President of the Finance Committee, was next read. This stated, that the Commissioner, had on his representation discouraged the practice of selling live sheep and goats at Byculla, and that since the removal of the slaughter-houses to Bandora, an immense amount of private slaughtering, which it was impossible to prevent by other measures, had been going on in the town, on the plea that they were to be used in ceremonies. He admitted the loss to the butchers, and stated that the returns showed a falling off of 70,393 sheep during the year ended 31st December 1867, which would represent a sum of Rs. 4,399-15; but he thought this loss should not stand against such a step, for the health of the people, as that taken by the Commissioner. All persons, he added, who wished to buy sheep or goats for religious rites or domestic ceremonies were allowed to do so on the ground at Bandora, on payment of the usual fee.

Another petition had been sent on the 24th of February praying, that as sheep or goats could not be got every day at Bandora, some person should be allowed to keep 300 or 400 at Byculla for sale, for religious and ceremonial purposes only.

A report by Dr. Hewlett, in reply to this, strongly objected to such a privilege, but said that at the great feasts that could as hitherto be allowed, as for instance, at the late Buckri Eed, when 5,000 sheep and goats were brought in with the Commissioner's permission, and sold within the three days of the Eed,

Mr. A. T. Crawford (the Municipal Commissioner) moved.—

“That the petitions, and reports of Dr. Hewlett thereon, complaining of the Municipal Commissioner not allowing the petitioners to sell sheep at Byculla, be recorded.”

The whole matter, he said, had been considered by the Finance Committee of the Bench at great length, and they had resolved—“That the petition be submitted to the Bench with an expression of the concurrence of the Standing Committee in the course adopted by the Municipal Commissioner with a view to discourage the slaughter of sheep in Bombay.” No illegal steps had been taken by Dr. Hewlett or himself in this matter; they had simply insisted that, if people wanted to enjoy the privilege of slaughtering a large number of sheep daily, they

should go out to Bandora and purchase them, where sheep were usually sold to the butchers. There was a certain number of butchers who were even now trying to kick against the pricks, and to overcome the arrangements that had been made. The practice of slaughtering in private houses was a most serious matter, and there was every reason to believe that two, or three, or four hundred were slaughtered nightly in that manner. This really could not be tolerated, and accordingly measures had been taken which would lead to the abolition of this private slaughtering. If anybody thought he was suffering from illegal measures, he had his remedy.

Dr. Birdwood seconded the motion, and expressed a wish that the reading of such petitions in future might be done away with. Nearly an hour had been spent in reading the documents about this matter, and certainly the Justices had derived no edification.

Dr. Hewlett mentioned that during the quarter ending 31st March 1868, 13,620 more sheep were slaughtered at Bandora than during the corresponding period of the previous year. That represented a sum of Rs. 851—or Rs. 3,400 annually—received by the Municipality. At present about a hundred sheep were allowed to be brought in, and slaughtered nightly in the town, and that was quite as many as the Municipality should allow to be slaughtered in private houses, but more than that number would be allowed, if required.

Captain Henry thought it hard that sheep should not be allowed to be purchased in Bombay, but quite agreed that they should not be slaughtered in town.

Mr. Crawford—We don't interfere with them, when they purchase sheep in Bombay, if they can find anybody to sell them.

The motion was here carried.

Captain Henry—Do I understand that there is no objection to selling sheep at Byculla?

Mr. Crawford—We can't prevent it.

Dr. Hewlett—They must first pay their fee at Bandora, and the sheep must be inspected if they wish to slaughter in the town.

Captain Henry—Is there a law that they must pay their fee before they bring them to Bombay?

Dr. Hewlett—That is the question.

Captain Henry—I suppose you are bringing a pressure to bear upon them without any legal power to do it?

Dr. Hewlett—No, I don't say that. (Laughter.)

(26-4-1868.)

The DeLisle Road Sheep Market has now been in existence for many years, and the selling of sheep is permitted thereat.

The Sub Committee of the Standing Committee which was appointed on 25th July 1894, recommended the building of a market adjoining the Parel Station B. B. & C. I. Railway or on a site south of Fergusson Road.

Fergusson
Road Market.

Eventually a market was erected near the Parel Railway Station and is called the Fergusson Road Market.

On the 3rd May 1899, the Committee of the Corporation recommended the building of a market on a suitable site near Elphinstone Road. On the 15th June 1899, the Corporation approved of the report but no market has yet been built on that site.

Supari Bag
Road Market.

A proposal to close the Foras Road Market was rejected by the Corporation on 13th February 1900.

Foras Road
Market.

A proposal to construct a market at Chowpati was considered by the Corporation in 1896 but nothing definite has yet been settled.

Chaopati
Market.

The pay of the Clerk of the Committee of Markets for 21 months i. e. from January 1809 to September 1810 was Rs. 630 or at the rate of Rs. 30 per mensem.

Pay of the
clerk of Mar-
kets.

The pay of the Superintendent of Markets in 1902 is Rs. 600+Rs. 50 as allowance with a personal allowance of Rs. 100 per mensem and free quarters. The present Superintendent is Mr. Douglas Bennett. Mr. H. Holmes and Mr. L. W. Michael have on occasions acted as Superintendent of Markets during the absence of Mr. Bennett on leave.

Under the supervision of Major William Brooks in the year 1794 the erection of a mutton market place in the Town, was sanctioned at a cost of Rs. 2,940-1 quarter and 14 reas.

The old
Mutton Mar-
ket in the
Town.

There are at present a large number of public and private markets in the city, of which the Arthur Crawford Market and the Erskine Road Market are the most important.

The total amount of stallages from the different Municipal markets, recoverable every quarter or half-year under the terms of section 407 (a) and (c) at the opening of the year

1898-9 amounted to Rs. 47,205 against Rs. 47,512 at the closing of that year. The following is the statement :—

Names of Markets.							Rents per quarter as appearing at the opening of the year 1898-99.	Rents per quarter as appearing at the closing of the year 1898-99.
Stallage Fees.	Colaba Market..	..	..	..	..	..	Rs. 305	Rs. 305
	Fort do.	..	..	..	..	..	4,676	4,688
	A. C. Fruit & Vegetable Market	..	..	..	..	..	14,542	14,542
	Do. Fish and Mutton do.	..	..	..	..	..	2,614	2,614
	Do. Mutton Market (new)..	..	..	..	..	..	947	947
	Do. Beef Market	..	..	..	..	..	2,528	2,624
	Godowns	..	..	..	..	..	1,628	1,553
	Fowl rooms	..	..	..	..	..	825	852
	Erskine Road Fruit and Vegetable Market (old)	..	..	..	..	..	6,233	6,233
	Do. do.	..	..	..	..	..	2,503	2,492
	Do Mutton Market	..	..	..	..	..	2,530	2,530
	Bhuleshwar	do.	..	..	..	..	3,395	3,232
	Pedder	do.	..	..	..	..	464	464
	Foras Road	do.	..	..	..	..	345	345
	Pork	do.	..	..	..	..	100	100
	DeLisle Road Sheep	do.	..	..	..	..	3,570	3,570
	Ferguson Road	do.	..	..	..	..	....	421
Total ..							47,205	47,512

Names of Markets.					Total number of stalls.	Average number of stalls entirely vacant in each quarter during 1898-99.	Remarks.
Number of Stalls in the Municipal Markets.	Colaba Market	..	..	..	70	31	Rent collected half-yearly.
	Fort Market..	..	..	..	265	61	
	A. C. Fruit and Vegetable Market.	..	..	..	563	48	
	Do. Fish and Mutton Market	..	..	..	119	47	
	Do. Mutton Market (new)	..	..	..	68	15	
	Do. Beef Market	..	..	..	77	One stall was vacant in the 1st quarter and one in the last quarter.	
	Godowns	..	..	..	29		
	Fowl rooms	..	..	..	29		
	Erskine Road Fruit and Vegetable Market (old)	..	..	..	426		37
	Do, do. (new)	..	..	..	128		61
	Do. Mutton Market	..	..	..	114		51
	Bhooleshwar	do.	..	..	162		54
	Pedder	do.	..	..	40		11
	Foras Road	do.	..	..	68		34
	Pork	do.	..	..	2		....
	DeLisle Road Sheep	do.	..	..	50		....
	Ferguson Road	do.	..	..	28		Only one stall was vacant in last quarter.

SLAUGHTER HOUSES.

Early in the year 1866, sanction was obtained to the removal of the slaughter houses to Bandora, and to the running of a daily meat train. A measure long needed, and strenuously opposed up to the last by the entire butcher fraternity.

The Municipality had to bear in mind the following among other points:—

“ That the cammatterees and others actually employed in slaughtering must have lines on the ground. That there must be standing room under cover for at least 3 days supply of live cattle for Bombay. That there must be space for the bi-weekly fairs of live stock. That there must be abundance of water. That there must be every convenience for live cattle to reach the ground by rail. That to ensure speedy transit to Bombay the siding for the meat train should be so close to the slaughter houses as to admit of the meat being loaded from them at once into the meat vans. That the prejudices of the Hindu Communities should in no way be offended. These prejudices showed themselves at every step and in most trivial detail. For instance not only was it necessary that the mutton and beef should be slaughtered under separate roofs and in distinct buildings, but the blood and drainage from the beef slaughter house could not be allowed to pass even in an underground sewer past the mutton slaughter house. Again besides a wall dividing the two yards, it was imperative that it should not be possible to see from the mutton yard and building into the beef slaughter house; and the mutton and beef must go in separate vans, the buffers of which must not even touch each other, (a separate train was even demanded) and on arrival in Bombay, the mutton and beef must not see each other, but carried away to the market by different routes and a separate gang of coolies be employed to cleanse each slaughter house.”

Prejudices
regarding the
Slaughter of
animals,

By adopting the radial plan, Mr. Aitken had been able to meet all these difficulties. A siding which ran in from the Bandora Station, bifurcated in two sidings—one to the west, being the live stock siding and platform, the other to the east the meat siding. In the space bet-

The meat
train service.

ween the two were the mutton and beef and commissariat slaughter houses, built on the line and along the curve, with their respective yards in rear.

Cattle arriving by the main entrance were landed on the live stock platform, passed at once into the large open space used for the hakkas or fairs, and were afterwards passed into the large standing sheds on each side of the central road. The Inspector's sentry box was between the two gates to the slaughter houses and sheep or cattle were there daily inspected and passed for slaughter before entering the slaughter house yards. They were tied up in the yard until required, and the carcasses being prepared were at once carried through the east doorway, and hung up in the meat vans alongside. The train having been once made up was not altered. The mutton vans were separated from the beef vans by three third class carriages, in which only those coolies travelled who were needed for carrying meat to the market after arrival in Bombay. The train left Bandora about 3 A. M. and reached Bori Bunder about 4 A. M. At the temporary siding at Bori Bunder, screens again separated the mutton from the beef vans.

Vehar water had been laid from Mahim over the causeway into the slaughter houses and to the standing sheds. The buildings were designed by Mr. Aitken. They are neat, plain, substantial buildings well suited in every way to the purpose for which they are used. All these buildings were erected by Messrs. Wells and Glover, Contractors.

The slaughter house was first used on the night of the 19th February 1867 and the first meat train reached Bori Bunder the following morning at 4-45 A. M.

The butchers' strike.

The Butchers gave a great deal of trouble on various occasions. In the first place with a view to frighten the Municipality into a change of plan they endeavoured to excite the fears of the Hindus by spreading gross falsehoods regarding the arrangements for the conveyance of the meat. Many ignorant persons actually abstained from eating meat, believing that it had been defiled. Finding their profits affected by this result, the mutton butchers then tried a strike in March 1867, but fortunately the Municipality obtained timely information,

and were almost immediately prepared with butchers and sheep. This strike was thus soon ended, but there was another general strike of the butchers, which resulted in their complete discomfiture and humiliation. The fact is these people had been treated with excessive consideration, their profits were enormous, and the trade being in the hands of a few men, they had a mistaken idea of their power.

The result of the strike was the following petitions from the beef and mutton butchers :—

BEEF BUTCHERS' PETITION.

“ We, the beef butchers of Bombay, now humbly beg pardon of the community at large, and of the Municipal authorities, for the recent and former strikes. We hereby, one and all, promise that nothing of the kind shall occur again, and as a material guarantee we hereby deposit with the Municipal Commissioner the sum of 5000 rupees, which we are willing to have forfeited for the benefit of the Municipal Fund, should there ever again be a strike, or any attempt to oppose the decisions of the Worshipful Bench of Justices, or to break through the conditions hereinafter agreed to. We beg that this sum may be deposited in the names of Wulla bin Mahomed and Maboob Buhimon, and Tazoo Kala who on our behalf, will draw the interest at the rate of 5 per cent. per annum. We all agree to the following conditions now imposed by the Municipal Commissioner *viz* :—

“ That each butcher shall register his own name and that of each partner in the office of the Health Officer, and shall take out a license for each year on payment to the Municipal Fund of a fee of Rs. 15 for each man.

“ That the “ Hukh ” or market for cattle shall be held at Bandora within the Municipal enclosure, and at no other place.

“ That thirty five (35) train tickets only shall be issued free for the Halkuries employed by us. This number to be reduced when the new beef market is completed and the meat siding brought up to it. That butchers and Cammattrees travelling by the meat train shall pay for their own tickets.

“ That the following men who had stood by the Municipality during our strike shall obtain a license free, and shall occupy a stall for one year on payment of a nominal fee of one pie only.

“ Names :—Lall Hosein, Mahomed Cassim, Haji Habib Shaik Russool, Chan Mahomed Noor Mahomed, Tajoo Hoshein, Currim Mahomed Tajoo and Tajoo Moorad.

“ That in the event of disobedience of the orders of the Municipal Commissioner or the Health Officer, the offenders license to slaughter, shall be liable to be cancelled, and he himself ejected from the Municipal Markets, forfeiting all fees or rents paid by him.”

MUTTON BUTCHERS' PETITION.

"We the mutton butchers of Bombay, now humbly beg pardon of the community at large, and of the Municipal authorities, for the recent and former strikes. We hereby, one and all, promise that nothing of the kind shall occur again, and as a material guarantee we hereby deposit with the Municipal Commissioner the sum of Rs. 5000, which we are willing to have forfeited for the benefit of the Municipal Fund should there ever again be a strike, or any attempt to oppose the decisions of the Worshipful Bench of Justices, or to break through the conditions hereinafter agreed to. We beg that this sum may be deposited in the names of Nuthoo Soolba Patel, Hoosein Chandaji, Sooban Balaji, and Dorabji Hornnuaji, who, on our behalf, will draw the interest at the rate of 5 per cent. per annum. We agree to the following conditions now imposed by the Municipal Commissioner *viz* :—

"1. That each butcher shall register his own name and that of each partner in the office of the Health Officer, and shall take out a license for each year on payment to the Municipal Fund of a fee of (5) five rupees for each man.

"2. That the "Hukh" or market for sheep shall be held at Bandora within the Municipal enclosure, and at no other place.

"3. That (75) seventy five train tickets shall be issued free for the Halkaries employed by us. This number to be reduced when the new market is completed and the meat siding brought up to it.

"4. That butchers and cammatteries travelling by the meat train shall pay for their own tickets.

"5. That the following men who have stood by the Municipality during our strike, shall obtain a license free, and shall occupy a stall for one year on payment of a nominal fee of one pie only; Luximon Muliba, Gunpat Luximon, Pallonji Rustonji, Cowasji Dossabhoy, and Taj Mahomed Pathan.

"6. That in the event of disobedience of the orders of the Municipal Commissioner or of the Health Officer, the offender's license to slaughter shall be liable to be cancelled, and he himself ejected from the Municipal Markets, forfeiting all fees or rents paid by him."

Riots of
1893 & 1898.

On the first night of the riots of 1893, the butchers struck, and refused to kill. Mr. Douglas Bennett the present Superintendent of Markets, on hearing of the strike proceeded to Bandora at about 10 P. M. and with great determination, made them proceed with the work of slaughtering and dressing, with the result that there was no interruption of the meat supply to the City next morning.

Mr. Acworth the then Municipal Commissioner for the City of Bombay has placed on records to the effect that the City was particularly indebted to him (Mr. Douglas Bennett) for the continuance of its food supply during that critical period.

In the riots of 1898 the ingenuity and courage of Mr. Bennett was again conspicuously brought into prominence. Every industry and trade in the City was brought to a dead lock for some days and threats were hourly held out to the dealers of assault unless they closed their stalls. As in the riots of 1893 so in the riots of 1898 on the same night and about the same hour the butchers again struck. On this occasion Mr. Bennett proceeded at about 9 P.M. with a non-commissioned officer and about a dozen men of native infantry, and on his teaching the men a sound lesson the work of slaughtering was again proceeded with and the meat supply arrived in Bombay almost at the usual time. The most trying time was the first and second years of the plague epidemic. The dealers and all the market traders became thoroughly panic stricken, and were wanting to flee from Bombay, and notwithstanding these tremendous odds against which Mr. Bennett had to contend, the dealers and stall holders were persuaded to remain and go on with their calling.

On the land acquired for the Slaughter-houses at Bandora stood the picturesque ruins of the old Jesuit College which was visited by Dr. Fryer in 1672, who thus described the place :—

“ Upon these shores it was not long before I was employed to wait on the Father Superior of the North, a learned man, and a Spaniard by nation, of the order of the Jesuits.

“ The President commanded his own baloon (a barge of state of two and twenty oars) to attend me and one of the Council to compliment the Father on the Island of Canorein, parted from Bombaim by a stream half a mile broad. Near our landing-place stood a College, not inferior to the building, nor much unlike those of our Universities, belonging to the Jesuits here, more commonly called Paulistines (whose visitor was now my patient), who live here very sumptuously, the greatest part of the Island being theirs. Our entertainment was truly noble and becoming the gravity of the society. After I had done my duty the Fathers accompanied us to the barge. Afore the College gate stood a large Cross thwack'd full of young blacks singing vespers. The town is large, the houses tiled; it is called Bandora. At

The History
of the Slaughter
Houses.

our departure they gave us seven guns, which they have planted in front of their College for their own defence; besides they are fitted with good store of small arms.

“In the middle of the river we had a pleasant prospect on both sides. On Bandora side the College, the Town, the Church of St. Andrew a mile beyond, and upon the hill that pointed to the sea the Aquada, Blockhouse, and a Church; on the other side the Church of Maijm with other handsome buildings.”

No. of Animals Slaughtered for consumption.

The following table shows for five years the number of animals slaughtered at the Bandora Slaughter-houses and in Bombay for Public and Commissariat consumption exclusive of the local supply to Bandora :—

Year.				Horned Cattle.	Sheep & Goats.	Pigs.
1894-95...	...	...	...	35,614	514,753	871
1895-96...	...	...	...	38,296	521,731	821
1896-97...	...	...	...	39,659	474,469	619
1897-98...	...	...	...	33,661	533,860	614
1898-99...	...	...	...	42,254	571,023	577

The following statement shows the number of animals taken from the Municipal Slaughter-houses for private slaughter during the past five years :—

Year.				Horned Cattle.	Sheep & Goats.
1894-95...	...	...	...	250	32,643
1895-96...	...	...	...	323	30,731
1896-97...	...	...	...	358	5,406
1897-98...	...	...	...	123	6,381
1898-99...	...	...	...	395	9,200

On the 8th December 1887, the Butchers petitioned the Corporation that the conveyance of meat by bullock Vans may be abandoned and the former system of meat conveyance by railway be returned to.

The Acting Municipal Commissioner, in his letter No. 2735, of 1889 reported thereon as under :—

SIR,—In reply to the Town Council's Resolution No. 1961, of 4th January 1888, I have the honour to state that there are

great difficulties in the way of a satisfactory solution of the market meat question.

2. A shed for the goats and sheep has been wanting for 8 or 9 years past, and though desirable, there is of course no specially urgent reason for undertaking it at once. I have asked the Engineer to prepare an estimate of the cost, and I choose a site a few days ago in case it were decided to go to the expense of erecting one.

3. The question of bringing in the meat by train is a very difficult one, and has been engaging the attention of both Mr. Ollivant and myself for some years past.

4. The difficulties consist in—

1st.—The expense, as it is probable that carriage by rail will be more expensive than the present system though certainly preferable to it. 2nd.—The necessity for running the train partly on the B. B. & C. I., and partly on the G. I. P. Railway so as to reach Bori Bandar. 3rd.—The difficulty in obtaining a meat siding anywhere near the Arthur Crawford Market and the high price to be paid for it.

5. I am, however, in active correspondence both with the Railway Companies on the subject of the haulage and with Government on the subject of land for a meat train siding.

Till all these points are settled, no scheme can be definitely brought forward, and the butchers should be informed that nothing can be done for some time to come.—I have, &c., F. L. CHARLES, Acting Municipal Commissioner.

The Town Council forwarded the Commissioner's letter to the Corporation with the expression of their concurrence therewith.

On the 30th July 1888, the Corporation passed the following resolution thereon :—

Proposed by Colonel Merewether seconded by J. R. Duxbury, Esq.—

“ That, in reply to their petition dated 8th December 1887, Messrs. Noor Mahomed Patel Ebrahim
No. 9523. Mohidin and other butchers and dealers carrying on business at Bandora, be informed that there are difficulties in the way of bringing meat into the Markets from Bandora by Railway as the trains would have to run over both the B. B. & C. I. and the G. I. P. Lines of Railway, and because it would be difficult to obtain a site for a meat siding near the Arthur Crawford Markets.

“ That for some time to come, therefore, in any case nothing can be done in the matter.

"That the question of shed accommodation is under the Town Council's consideration."

Carried.

Considered.—Letter from the Commissioner, No. 7136, dated the 26th June 1899:—

Re-leasing of
the grazing
ground.

"I have the honour to state that the Collector of Thana, under his letter No. 5128 of the 15th July 1897, informed me that Government have determined to resume the ground at Bandora leased to the Municipality for grazing cattle brought on the Bandora Fair ground by sheep dealers under a lease dated the 31st January 1873, and that the lease expired with the expiry of the original Survey Settlement of the Salsette Taluka in 1892, and since that date the Bombay Municipality have merely held the land as tenants-at-will of Government, and added: 'I accordingly by direction hereby give notice to the Municipality that its tenancy will cease and the land be resumed by Government on the 31st January 1898; the Bombay Municipality is at liberty to make proposals regarding the rest of the land if it desires to retain any part of it.'

"2. Correspondence has since been going on with the Collector, and it is now ascertained that the area available to be leased is 450 acres or thereabouts, south of the Tulsi Duct and west of the rifle ranges.

"3. As the ground is necessarily required by the Municipality, I propose to re-lease it on the following conditions, and request the necessary sanction of the Corporation:—

"(1). That the lease shall extend to the end of the present settlement.

"(2). That the Municipality shall pay rent to Government at the rate of Re. 1 per acre per annum as before.

"(3). That the Municipality shall at any time give up possession of any portion of the land required for public purposes on a six months' notice being given to them."

Proposed by Nanabhai N. Katrak, Esq., seconded by Haji Yooosof Haji Esmail, Esq.—

"That, as applied for by the Commissioner in his letter No. 7136, dated the 26th June 1899, No. 4135. sanction be given to re-lease, from Government, 450 acres of ground at Bandora at a rent of Re. 1 per annum per acre, the lease extending to the end of the present Survey Settlement of the Salsette Taluka, and the Municipality agreeing to give up at any time possession of any portion of the land required for public purposes on six months' notice being given to them."

Carried. (10th August 1899).

In 1897, a Committee of the Corporation was appointed to report on the improvement of the Bandora Slaughter Houses with the following result :—

BOMBAY, 26th April 1897.

The Committee of the Corporation appointed on 25th January

1897, as per margin, beg to report that, having inspected the Slaughter Houses, buildings and works referred to in the Commissioner's letter No. 17068 of the 26th November last and enquired into the urgency of the various works referred to therein, have come to the conclusion that all the improvements proposed are generally desirable and necessary and that they have arrived at the following conclusions :—

That a Committee, consisting of Veterinary-Major Mills, Mr. Cuffe, Dr. Katrak, Mr. Shroff, Mr. Roughton, and Dr. D'Monte, be appointed to visit the Bandora Slaughter Houses and report the works which in their opinion, are the most urgent of those referred to in the Commissioner's letter No. 17068, dated 26th November, 1896.

The extension of the Beef Slaughter House which has been included in the Budget for the ensuing year.

No. 1.—This work is undoubtedly urgent, and the Committee recommend the Corporation to sanction its being carried out at an early date.

No. 2.—This work is also extremely urgent, and in the opinion of the Committee it should be completed before the setting in of the ensuing rains.

No. 3.—This, too, is urgent, but, in view of the difficulties in the way of compelling the present contractor for the removal of offal to erect bullock stables and huts for labourers and the absolute necessity, from a sanitary point of view, of removing the existing objectionable buildings, the Committee recommend the Corporation to put up sheds and huts in their place at the least possible expense. The Committee are of opinion that no buildings of a permanent nature are necessary, but that sheds of the nature of those erected at the Government Lazaretto, Sewri, sufficiently strong to stand the south-west monsoon will meet all requirements for the present.

No. 4.—The Committee are of opinion that, having regard to the heavy expenditure involved and the difference of opinion as to the remedy to be applied, this matter must stand over for the present.

No. 5.—The question here involved has been referred to the Commissioner with the object of estimates being prepared by the Executive Engineer.

Two large additional sheds for harbouring sheep and goats at a cost of about Rs. 7,000.

Improvement
of Slaughter
Houses.

No. 6.—The Committee concur with their colleague Veterinary-Major Mills in the suggestion that side screens of bamboo should be put in in addition to the improvement of the roofing in order to secure sufficient protection for the men and animals while sheltered in the sheds, as such arrangement would tend during the monsoon to keep the floors dry. The work is urgent, and it should be carried out as rapidly as possible.

No. 7.—This work is less urgent than others. The stables when inspected were in a clean and healthy state. Although the expenditure involved is small, the Committee are of opinion that there is no immediate necessity for the proposed outlay.

No. 8.—The Committee strongly urge that, as this is a matter of vital necessity on sanitary grounds, the chawls should be forthwith repaired and would suggest that corrugated iron be utilized for all inside partitions and that the floors be dug up and relaid.

Removal and rebuilding of the five chawls occupied by butchers and sepoys. These are all old and require renewal; they contain respectively 52, 52, 34, 20 and 18 rooms. One of these chawls is in a worse state than the others and should be taken in hand first. As the work is an extensive one, the remainder can be taken in hand year by year as funds are available. The cost of rebuilding one of the largest of these chawls would probably be not less than Rs. 35,000.

In addition to the matters referred to them for consideration, the attention of the Committee has been drawn to the unsuitability of the bungalow occupied by the Assistant Superintendent owing to the want of ventilation and light, and they have asked the Commissioner to have estimates of the cost of this work prepared.

When the estimates above referred to are received, they will be circulated to the Corporation. As most of the works which the Committee recommend should be sanctioned are urgent and it is necessary that some of them should be completed before the setting in of the south-west monsoon, the Committee recommend the Corporation to sanction the immediate carrying out of the same, subject to the necessary recommendation as to the outlay involved being made by the Standing Committee.

G. W. ROUGHTON.
T. W. CUFFE.
K. M. SHROFF.
N. N. KATRAK.
JAMES MILLS.
D. A. D'MONTE.

I beg to offer the following remarks in regard to item No. 5 of the report. I presume that the figures as to cost were given on an estimate, either approximate or otherwise, framed by the Executive Engineer. I therefore fail to see why a further reference to the Commissioner should be considered necessary

and only means delaying a matter which is of an urgent nature. I am strongly of the opinion that at least one, if not both, of these sheds should be constructed before the monsoon sets in, as it cannot possibly be healthy for sheep and goats, nor conducive to good meat to have them exposed to the inclemency of the weather.

In the rains many sheep are lost, especially Marwar shearlings, from having to stand in the open. They come in on Market-days, *i.e.*, Tuesdays and Saturdays, and those that are passed as fit for food are purchased by the butchers; if dry, they are sent out to graze and brought back at 3 or 4 p.m. for slaughter. If wet, they have to stand fast in the yard up to the hocks in water. These sheep are not at once all killed, but kept often for ten days. The Assistant Superintendent reports that this is a very urgent matter and a cause of constant complaint from the butchers and naturally too.

JAMES MILLS.

The Committee's report was adopted by the Corporation.

It was Proposed by Thomas Blaney Esq., seconded by Mulji B. Barbhaya Esq.—

“That with reference to letter No. 1243 B. dated 11th December 1889, P. W. D. and para. 8* of Government Resolution No. 489 C. W. 2066 same Department dated 2nd Idem, the President be requested to refer Government to para. 5 of the report accompanying his letter No. 236 dated 3rd July 1888 to the effect that the Slaughter Houses at Bandora were erected after the fullest consideration, and that the Corporation do not, under existing circumstances see any necessity for removing the Slaughter Houses to Matunga.

Proposed Removal of Slaughter Houses to Matunga.

WEIGHTS AND MEASURES.

No. 2583 of 1895.

BOMBAY CASTLE, *22nd June 1895.*

GENERAL DEPARTMENT.

TO THE PRESIDENT, MUNICIPAL CORPORATION, BOMBAY.

SIR,—Adverting to the correspondence ending with Government letter No. 2949, dated 23rd August 1893, I am directed to inform you that the Government of India have decided to abandon for the present the idea of prescribing a uniform system of weights and measures throughout India.

* See Report of the Extension Committee.

2. As regards the request made in paragraph 2 of Mr. Cotton's letter No. 2855, dated 24th June 1893, I am directed to inform you that His Excellency the Governor in Council does not consider it necessary to amend at present the City of Bombay Municipal Act, 1888, in the direction indicated, but that the point will be reserved for future consideration.—I have &c.,

J. DEC. ATKINS,

Junior Secretary to Government.

Proposed by Dinshaw E. Wacha, Esq., seconded by Badrudin bin Abdulla Kur, Esq.—

“ That the following be *recorded* :—Letter to the President, No. 2583, dated 22nd June 1895, from No. 4028. the Secretary to Government, General Department, stating that for the present the Government of India have abandoned the idea of prescribing a uniform system of weights and measures throughout India.”

Carried.

POLICE.

In 1794, Sir Frances Gordon who was high Constable of Police, received a salary of Rs. 100 a month. Mr. Henry, Rusterfield who was first European Constable received Rs. 35 a month. Mr. Richard Periera was clerk of the rounds on Rs. 10. There were 31 Constables on Rs. $7\frac{1}{2}$ each per mensem; 3 Havildars on Rs. 7 each and 125 peons or sepoys on Rs. 5 each per mensem. The cost of stationary, oil and candles was Rs. 14 per mensem.

The staff employed for patrol purposes beyond the limits of the Town in 1795 was as under :—

Police staff
in 1795,

	Rs.	Per month.
1 European Constable	55-0	"
1 " "	15-0	"
13 Native Constables at Rs. 7-2	97-2	"
42 Peons at Rs. 5	210-0	"
Oil for 4 Chokees	3 2-40	"

In 1796, the monthly establishment of the Sheriff for the Criminal Department was as follows :—

	Rs.	Per month.
1 Marshall	45-0	"
1 Deputy Marshall	30-0	"
1 County Parvoe	20-3	"
1 Havildar	10-0	"
1 Naique	8-0	"
12 Peons	60-0	"
1 Executioner	6-0	"
2 Halakhots	8-0	"

SHERIFF'S EXTRAORDINARY CHARGES.

King's, European prisoners allowance	4-2	Per month.
Native prisoners	2-1	"
Marshall's attendance at the quarter sessions	1-0	
" " for execution	1-0	
" " " punishment	1-0	
Deputy Marshall's " quarter Sessions	2-0	
" " " execution	2-0	
" " " punishment	2-0	
Executioner or Hangman—his fee for each body with handkerchief to tie the eyes	2-0	each.
1 Coroner	90-0	Per month,
1 Padree Hindu	8-0	"
1 " Parsi	6-0	"
1 " Portuguese	6-0	"
1 " Jew	12-0	"
1 " "	8-0	"

On the 29th January 1795, the Court of Sessions passed the following resolution :—

Duties of Superintendent of Police in 1795.

“ This Court is of opinion that as the office of Superintendent of the Police is for watching the streets of the Town of Bombay, the charges thereof, ought to be defrayed from the county assessment.

“ The Court appoint Simon Halliday Esqr., to be Superintendent of the Police and is of opinion that the office of Superintendent of the Police, and of High Constable, ought to continue to be united in one person as heretofore.”

The Police was augmented in 1839, and the Bombay Government then wanted the Bench to increase the rate of the house assessment in order to meet the extra charges. The Bench, however declined to do so, but increased their contribution to Rs. 10,000 annually which Government accepted on 10th October 1839.

At the conclusion of the business of the October Meeting of 1871, the Chairman, Mr. John Cannon said :—

Dispute about payment of Police charges.

“ I now constitute this meeting into a special general meeting of the Justices of the Peace for the city of Bombay, to consider the Municipal Commissioner's Budget. I believe Mr. Maxwell has a motion to bring forward on this subject, which I now call upon him to do.”

Municipal Commissioner, want of confidence in.

Mr. Maxwell.—I think, that after reading the report of the select Committee—Mr. Hope's—it requires no explanation from me why I have to bring this motion forward. I have lost all confidence in the Municipal Commissioner and the Municipal Officers. I beg Dr. Hewlett's pardon, except those in the Health Department. I allude entirely to those officers who have had the control of the Municipal financial department. I think it is the duty of all of us to defer transacting any business until the action of Government on the report of this committee is made known. There can only be one opinion about it, and I therefore propose—“ That the consideration of the Municipal Commissioner's Budget for 1872 shall be deferred until Government has taken action on the Report of Mr. Hope's Committee, and that this special general meeting be adjourned till the 15th December (1871).

Mr. Hope's Committee.

Mr. Narayan Wasudevji seconded the motion.

Dr. Blaney.—If it is competent to this Bench, I would submit that our very respectful representation should go to Government along with a copy of this resolution in order to show that all business will be suspended during the interval. It is very desirable that Government should know how matters stand with us.

Mr. Narayen.—I think Mr. Hope's Committee have effectually shown that to us.

The Chairman.—Before we conclude about the precise date of this adjournment, I wish, as we are now proceeding in a very irregular and friendly manner, to bring to your notice a letter from the Municipal Commissioner addressed to the Clerk of the Peace. It is not properly part of this meetings business, but it may influence you as to how long you are going to adjourn.

The Municipal Commissioner's letter is as follows:—

To the Clerk of the Peace.

Sir,—I have the honour, to inform you, with reference to the Bench's resolution of 14th June 1871 directing me to restrict any payment for the Police to Rs. 2,96,865, that I have received an order from Government for the payment of the force for September. In this difficulty I have taken legal advice and being advised that it is my duty to pay the Police for the month of September last, I have this day paid the force. I have &c.

ARTHUR CRAWFORD,

Bombay, 21st October, 1871.

Municipal Commissioner.

Mr. Narayen.—Government appears to have already taken charge of the Municipality.

Captain Henry.—Is the Controller here, or any one connected with his department? I understand the Gas Company have a claim against us for a lakh of rupees. If so, they had better at once proceed to law and get whatever little they find left. Mr. Maxwell then altered the date of adjournment to 23rd November 1871 in which form his motion was carried unanimously.

A special general meeting of the Justices of the Peace for the city of Bombay was held in the Durbar Room, Town Hall, on the 16th November 1871, for the purpose (amongst other things) of passing resolutions respecting the payment of the police by the Municipal Executive officials, out of the Municipal Funds for the month of September and October 1871 in defiance of an express resolution of the Bench. There was a large attendance of Justices over whom the Chairman, Mr. Connon, presided. Spectators also formed a numerous body. The following is the report of the proceedings:—

The Police
question of
1871.

The Chairman.—The business before the meeting is, as you are aware, multifarious. The first items on the paper are these:—

1. To require the Municipal Commissioner, the Controller, or other Municipal officers, who are in possession of the documents, to produce the order of Government, and the legal opinion on which they acted in paying the Police for the month of September out of the Municipal

Fund in defiance of the express resolution of the Bench dated 14th June 1871, as well as Sec. 6 of Act II of 1865.

2. To require the Municipal Commissioner to explain his conduct in countersigning the cheque for the payment of the Police, against the orders of the Bench and the provisions of said Section 6 of the Municipal Act.

3. To require the Clerk of the Peace to explain why the Municipal Commissioner's letter of the 21st instant, communicating the fact that he paid away money out of the Municipal Fund against the orders of the Bench, was not immediately circulated to the Justices instead of being kept back till the close of the special meeting of the Bench held on the 25th ultimo &c. &c.

Mr. Maclean.—Perhaps the Officers of the Municipality may be able to produce the accounts called for.

The Chairman.—Well, Mr. Arthur Crawford I suppose is by this time in European waters, and I do not imagine he will produce much at this meeting. I believe I have authority to say that the Controller, Mr. Maidment, has resigned his appointment and that he is also so sick that he cannot attend here to-day. As to the Clerk, Mr. Leslie Crawford, I think every gentleman must be satisfied by this time that he was not at all in fault—whoever else was in fault about the business—and that he did not receive the letter until the morning of our Meeting. I did not see it myself until we met here, and the moment I did see it I thought it of such consequence that I read it at once. As far as Mr. Leslie Crawford is concerned I do not think any gentleman will say that he was in fault and I think his explanation is very satisfactory. As for the other two officers mentioned, it is for this Meeting to decide what steps are to be taken.

Captain Henry.—Are we to understand that the whole of the Municipal office has so entirely collapsed that there is no one here to reply to these queries ?

Dr. Hewlett.—No, I am here (laughter and applause.) At least I am here so far that I am unfortunately the only Municipal officer who is in possession of the documents called for ; and I have received the permission of Government to read to the Bench this confidential letter from Mr. Acting under Secretary Nugent to the address of Mr. Crawford. (see note Marked *)

* *Confidential*—Poona 26th September 1871.

My dear Crawford—I have to acknowledge the receipt of your letter of the 24th instant and in reply am desired to inform you that Government will indemnify you and the Controller for any risk which you and he may incur by the payment, as usual from the Municipal Funds, of the expenses of the Bombay City Police for the current month.

Your Sincerely.

A. CRAWFORD Esq.

J. NUGENT.

Mr. Hamilton Maxwell.—Before moving the resolution on the payment of the Police question, I will read a short sketch which I have prepared concerning the proceedings of the Bench of Justices in that matter. The Bench met in October 1870 to consider the Municipal Commissioner's estimate of Income and Expenditure for the year 1871 in accordance with Section 33 of Act II of 1865. The Police expenditure was estimated at Rs. 3,95,280 of which Government paid Rs. 98,955. The Police rate was, in accordance with Sec. 227 of the Municipal Act fixed at 2 per cent. At the meeting of the Legislative Council held on the 5th April (the proceedings of which were only reported in the Government Gazette of the 4th May) it was stated to be the intention of Government to withdraw the contribution to the Police, and although Government did not make any reference to the Bench, the subject was discussed at their quarterly meeting held on 26th April, when the following resolutions were carried :—

Proposed by Mr. Nowrojee Furdoonjee, seconded by Mr. Narayen Wasudeo.—“ That a select Committee be appointed to prepare a memorial to Government remonstrating against the withdrawal by Government of their contribution to the Police Fund of the Municipality and praying for its continuance. The Committee to consist of the following gentlemen :—Messrs. Nowroji Furdunji, Narayen Wasudeo, Dr. Blaney, and Mr. Pherozshah Mehta.”

Proposed by Narayen Wasudeo Esq., seconded by R. N. Khote Esq.—“ That with reference to Section 224 of the Municipal Act, Government be requested to reduce the cost of the Police so as to bring the charges for the six months ending 30th November 1871 down to Rs. 1,23,914, the estimated yield of the Police rate for six months, being an average rate of about Rs. 20,652 a month and that they be informed that the Bench has fixed the revised Grant for Police for the current year at Rs. 3,21,824 of which it is estimated that Rs. 1,97,910 will be expended in the 6 months ending 31st May 1871, that the Commissioner be directed to pay the Police from 1st June 1871 at the above reduced rates of Rs. 20,652 a month only.

“ That the memorial to Government on the subject of the Police Grant as read to the Bench, be adopted and forwarded to Government. ”

This memorial respectfully submitted the case to Government. Reference to the following Government resolution will show, that the request of the Bench to be put on an equal footing with Calcutta and Madras, was most reasonable and coincided with the ideas of Government as then expressed. On the 30th June Mr. Nugent, the Acting under Secretary to Government was directed to acknowledge this memorial with a curt refusal to alter the decision of Government and stated that ample means with good management, had been placed at the disposal of the Bench to meet all obligations legitimately be-

longing to it. There is no doubt, that with good management our means were quite ample, but then there was not good management.

Mr. Nugent's letter was as follows :—

Bombay Castle, June 3rd 1871.

To the Clerk to the Justices of the Peace for the City of Bombay.

Sir,—I am directed to acknowledge the receipt of your letter dated the 18th ultimo, submitting a memorial of the Justices of the Peace for the city of Bombay, on the subject of the withdrawal by Government of their contribution to the Police Fund of the Bombay Municipality. In reply I am desired to state that Government decided to withdraw its contribution towards the maintenance of the Police force of the city of Bombay after a full and mature consideration of the circumstances which have been brought to notice in the memorial, and that the Right Honorable the Governor in Council sees nothing in the fact stated which should cause him to alter his former decision. The Governor in Council has further desired me to state, that the numerous advantages possessed by the City of Bombay which has been correctly described by the memorialists as an "Entrepot of vast commerce," and the comparative wealth of its citizens, render it just that it should bear the entire cost of its Police and that it would be iniquitable for Government to call upon the inhabitants of less favoured towns and districts of the Presidency to contribute to relieve the city of Bombay from the discharge of an obligation which legitimately belongs to it.

Government have placed at the disposal of the Municipal administration resources which should in their opinion be ample, with good management to provide for the reasonable requirements of the city, and they will be glad to consider any proposals for a reduction of the Police force which may be practicable without impairing its efficiency. I have, &c.,

JOHN NUGENT,

Acting under Secretary to Government.

The resolution of Government of the same date stated that H. E. in Council "cannot recognise any resolution of the Bench of Justices directing the carrying into effect a reduction to which the sanction of Government has not previously been accorded."

The whole case stands thus. The Bench in strict accordance with the Municipal Act passed the Budget Grant for the Police, depending on Government for the Imperial contribution of one fourth of the whole expenditure. The proceedings of the Bench were published in due form in the Government Gazette as required by section 33 of the Act, and no objection having been made by Government, we may presume that the Budget was duly sanctioned. On the 5th April the Government intimated its intention of withdrawing the Government contribution, but

made no reference to the Bench on the subject. The matter was however discussed at the first quarterly meeting of the Bench, and the resolutions I have just read were prepared and forwarded to Government. Government has since, in the most illegal manner without reference to the Bench, ordered the Municipal officers to meet the expenditure. I have no hesitation in stating my opinion, humble though it might be, that Government has acted in a most arbitrary manner in requesting the servants of the Municipality to act in defiance of the order of the Bench, and requiring them to spend the money which the Justices are the sole trustees. The resolution which it is now my duty to propose is as follows:—

“ That this Bench protests against the action of Government in ordering the Municipal officers to pay the Police for the months of September and October, without requesting them to obtain the sanction of the Bench of Justices and in opposition to the resolution of the Bench of the 14th June last, that the conduct of the Municipal Commissioner and Controller in acting in this matter without receiving the sanction of the Bench is highly reprehensible and deserving the severest censure of the Bench.”

Mr. Narayen Wasudeo in seconding the proposition said.—

This act of Government which is only one of a series, in dealing directly with the Municipal exchequer through their own officers and without the consent of the Bench, if followed to its legitimate consequences, might justify us in resigning all control over Municipal finances into the hands of Government. The policy which the Government of India has adopted of forming Municipalities throughout the country, independent of the executive Government, and thus relieving the imperial exchequer of their administration, has been systematically set at naught by the Bombay Government in connection with this Municipality. Under the present circumstances I think, sir, that the most moderate course, we can adopt is to enter our protest against the action of Government as proposed by Mr. Maxwell.

Dr. Dallas.—Our proper game is the Government, and in justice to our own self respect and position before the ratepayers of Bombay, we ought to record our protest. It is the only way we have of expressing our resentment and indignation at the way in which Government has treated us.

Mr. Maclean.—My opinion of the whole matter is this; the fundamental mistake that Government makes is to consider that the Municipal Commissioner and the Controller are under their orders. From the time of their appointment as officers of the Municipality they are the servants of the Municipality and of no body else, and the Government of Bombay has no more right to order them to pay money out of the Municipal Fund than it has to go to the Secretary of any public Company and tell him to use the money of his employers to pay the bills of any other

body. What should we think if Mr. Gladstone, the Prime Minister of England, were to go down and tell the officers of the city of London that they were to take money out of the public purse containing the revenues of the city to make up some deficit in the taxation of the country. No body can be more anxious than I am to uphold the character and reputation of the English Government in this Presidency ; but I must say I think the best way, that that can be done is by speaking straightforwardly and clearly and trying to do ones duty to the people honestly.

Mr. Janardhan.—If we allow the present opportunity to pass away without censuring the Officiating Municipal Commissioner what can we do to prevent Government from ordering him to pay the Police force for November in the same way. The Government has no power whatever to sanction any expenditure from the Municipal Fund any more than it has power to sanction expenditure from any private gentleman's property ; and the Municipal executive authorities had no more right to go up to Government and ask its sanction for expenditure than it had to ask Government to sanction expenditure from a man's private property. It is to prevent this occurring in future that I propose that the name of the Officiating Municipal Commissioner be added to Mr. Maxwell's motion.

The Chairman.—There is no Officiating Municipal Commissioner, Dr. Hewlett is temporarily in charge of the office of Municipal Commissioner.

Mr. Janardhan.—That is the name I substitute.

Mr. Bal Mungesh Wagle.—In seconding that amendment, I must say that if I had known that Dr. Hewlett, as an officer of the Municipality had consulted you on this subject in your capacity as Chairman of the Bench, perhaps I should have moved that your name also be added to the resolution of censure.

Captain Baker.—I think it right at any rate, that the Bench should know, before they pass such a vote of censure on Municipal officer's past, present and to come, including our Chairman, that there is something to be said on the other side. As regards the main question, I am sorry to say I do not agree with the Bench at all, or rather, I should say, with the gentlemen who wish to pass this vote of censure and who seem to think that the Municipal Commissioner must not pay any more money to the Police. I say the Commissioner will deserve a vote of censure from this Bench if he refuses to pay the Police any money, because if he refuses to do so he will destroy entirely the peace and safety of this city and of its inhabitants. I am perfectly astonished that a Bench like this should come forward and absolutely declare that their Municipal officers should not pay sums which are clearly and undoubtedly due to the Police. The money must be paid ; you can settle with Government afterwards whether Government is to pay it back to you or not. The money must be paid and therefore there should be no vote of

censure passed on the Municipal officers. They must obey the orders of Government. ("No" "No") In this matter they must ("No")—for their own sakes and ours too; and the Bench if they like and if they feel themselves strong enough can fight the matter out with Government and get the money back if they can. It seems to me that the Bench are altogether wrong in this matter, and it is very injudicious of us, on such grounds to put ourselves in antagonism with Government and give orders to our own officers, which orders we know they dare not obey.

Mr. Nowrojee Furdunjee.—Sir, I protest against the remarks that have fallen from the last speaker. He says the Bench is wrong and the Government is right. I submit that he takes a totally mistaken view of the main question which we are now discussing. It is a very simple question, and it is, that all money paid by or on account of the Municipality becomes and forms part of the Municipal Funds as soon as it is paid into the Bank of Bombay, which is our own Treasurer, and that no money can be drawn from our Treasurer, the Bank of Bombay without the sanction of the Bench. That is the principle which we must maintain, and which by the motion that has been proposed by Mr. Maxwell the Bench are called upon to maintain. It is utterly absurd to think that Government can at one moment pay that contribution on account of house rate and should then be at liberty to direct that it should be appropriated towards the expenses of the Police. Our duty is to vindicate the authority of the Bench, and it is on that principle that I intend to vote in favour of Mr. Maxwell's proposition.

Mr. Dossabhoy Framjee said.—The Justices who have spoken before me have been, I am afraid, carried away in a wrong direction with motions of offended dignity ("No" "No" and "Yes" "Yes") It is necessary to look calmly and without prejudice on the whole of the Police question before deciding on the proposition before you. You will remember that we thrice went up to Government and told them that we had no funds to pay the Police after the month of August and also that under the advice given to us by our Counsel, we were not going to make any payment beyond the above period. Government in reply clearly pointed out the law which was that the Justices are bound to pay the expenses of the Police. When you thrice, and in the most distinct and emphatic manner declared that you would not pay the Police for September what was the Municipal Commissioner to do? He naturally went up to Government and told them "that he had received your orders not to make any further payment on account of the Police and asked their advice. The reply of Government was decisive. It pointed out to him what his duty was under the law, and this I think is plain. The entire cost of the Police of the city must be paid out of the Municipal Fund. That is no doubt the law. I say that the Government was quite right in ordering the Police to be paid and the Municipal Com-

missioner was justified in carrying out the law, leaving the question of the Government liability to be settled at convenience. For my part I beg to state that Mr. Maxwell's proposition is uncalled for and unjust to the Government and I will therefore vote against it.

Rao Saheb Mundlik then proposed.—“That in order to prevent a breach of the Municipal Act by the Government of Bombay, a case be laid before Counsel by the Chairman of the Justices to ascertain what steps the Bench ought to take to protect themselves as trustees under the Act, and that meanwhile, all the officers of the Municipality be warned that any recurrence of such irregularity will be visited by dismissal.”

Mr. Percy Leith seconded the proposition.

Mr. P. M. Mehta.—I have a very few words to say on this matter. (cries of “Divide”) while I fully agree with (Renewed cries of “Divide”) shall I go on Mr. Chairman ?

Mr. Dossabhoj Framji.—I think sir, Mr. Pherozeshah is perfectly at liberty to speak as long as he is in order.

Mr. Mehta.—While I fully agree with the first portion of the resolution proposed by Mr. Maxwell, I cannot agree with the latter portion of it, which blames the Municipal officers for what they have done with respect to this matter. I fully concur with Mr. Maxwell that the conduct of Government though not strictly illegal, is most unconstitutional, and it is equally clear to me that under Act II of 1865, the Municipal Commissioner and the Controller of Accounts could not have done anything more than pay out of the Municipal Funds the Police expenditure for September and October. Section 224 of the Act says “The executive power and responsibility of this act shall be vested in one Commissioner.” Taking these two sections together it is clearly the duty of the Commissioner to pay the expenditure of the Police force, although the fund is under the financial control of the Bench. Under these circumstances it is very unjust to censure the executive officers for what is clearly their executive responsibility. I go further and say that after the opinion of Mr. Green there is great doubt thrown upon the matter and in a case of doubt I do not think the executive officers deserve to have a formal vote of censure passed upon them.

Mr. Maxwell's resolution was then put to the Meeting and carried by a large majority—45 voting for and 8 against it.

Mr. Janardhun's amendment to bring Dr. Hewlett's name within the scope of censure was then put and lost.

The Rao Saheb's resolution was then put to the meeting when 30 Justices voted for and 10 against it. The result was received with cheers.

The Chairman.—That resolution appears to be carried. You can cheer as much as you like, but I beg to tell you that I decline to submit any opinion to counsel, and I will leave the chair

whenever you like. I consider it insulting to Government and to any future Municipal officers, and you may find another Chairman to carry out your opinions.

Mr. Cannon then left the chair. Everybody appeared taken by surprise, and there was a dead silence for a few moments followed by a brief period of confusion, which lasted till the Chairman was asked, on the motion of Captain Henry to resume his seat.

The Chairman who on re-entering the room was greeted with cheers, said : I ought perhaps to apologise to you, gentlemen, for leaving the chair so abruptly but really it was not in any fit of temper that I went away. I acknowledge to you that I made a mistake in putting that resolution but Mr. Mundlik over persuaded me with his ingenious and facile tongue. What you had to do after passing such a resolution as Mr. Maxwell proposed was, to pass resolutions as to these three officers only ; but this is a warning and a menace both to the Government of Bombay and to all present and future officers of the Municipality which ought certainly to have been given notice of, and I must beg of you to reconsider it. Personally I distinctly decline to have anything to do with it. I should properly have remained here until some one moved that I do leave the chair, but it was out of respect to you that I left it. The resolution was carried, and I would not leave you to move such a proposition. I do not resign the Chairmanship to which you did me the great honour of appointing me, because it would lead to inconvenience, and until you can find some gentleman to conduct this business more satisfactorily I shall remain. As to this resolution, I think, I was in error in allowing it to be put. The full extent and limit of the paper before you was to pass such other resolutions in respect to the past conduct of these three officers but the resolution that has been passed is a warning and a menace as to the future. Therefore with the greatest respect to the majority here present, who have voted this resolution, I acknowledge with shame and confusion of face (a laugh) that I ought not to have put it. And I now, with the greatest deference say, I will not act upon it. If any gentleman likes to move that I do leave the chair, now is the time to do so.

Captain Henry—Perhaps Mr. Mundlik will withdraw his resolution.

The Rao Sahab.—I am sorry to say I am obliged to defend what your goodself has done as our Chairman in justice to myself as well as to the gentleman who seconded me. If I were called upon to explain the reason why I put in the name of the Chairman in preparing the case, all I can say is, that I simply put it as the only official form in which the Bench of Justices can act by means of a single individual. I do not for one moment say that it is the duty of the Chairman to draw up a case. The Corporation has its Solicitors and they will draw it up. I

do not mean this resolution, Mr. Chairman, as a menace to the Government of Bombay, from whom I have received the Commission of Peace. At the same time I do say that it is a protection against future acts of this kind, for we have been told at this very meeting that some such action may be taken for the very next month.

A poll was then demanded on the resolution of Mr. Mundlik with the following result.

For the Rao Sahib's Resolution	26
Against	42

majority 16

The resolution was thereupon declared as lost.

Section 224 of the Bombay Municipal Act of 1865, directed that the annual expenses of the Police of the city should be paid out of the Municipal Fund, and accordingly from the first July of that year, the municipality became liable for the expenses of the Police. But it was represented to Government that the act did not provide for the levy of a Police rate until the 1st January 1866, and that there were no funds to pay for the Police during the last six months of that year. Government were accordingly pleased to direct that the section above quoted should take effect from 1st January 1866.

A proposal to reorganise the city Police was submitted to the Corporation in 1893. The Honorable Mr. P.M. Mehta C.I.E. was appointed by Government as a member of the Committee. The whole of the proceedings which is very extensive, as well as the Honourable Mr. Mehta's minute thereon will be found in the "Police file" kept by the Municipal Secretary.

The following report of the Committee of the Corporation summarises the ultimate decision arrived at:—

BOMBAY, 10th November 1900.

The Committee appointed by Corporation Resolution No. 982, dated the 22nd April 1895, and last re-appointed by Corporation Resolution No. 429, dated the 14th April 1898, for enquiring into the adjustment of Police Charges between Government and the Corporation, have, since submission of their Report which was approved and adopted by Corporation Resolution No. 9422, dated the 19th January 1899, had the following papers referred to them by the Corporation Resolutions noted against them:—

(1) Government letter, Judicial Department, No. 3404, dated the 16th May 1899, referred by Corporation Resolution No. 2242, dated the 19th June 1899.

(2) Government letters Judicial Department, No. 678, dated the 26th January 1898, and No. 8585, dated the 27th

December 1898, with Commissioner's report thereon, referred by Corporation Resolution No. 6514, dated the 5th October 1899.

(3) Government letter, Judicial Department (to the Commissioner), No. 8301, dated the 4th December 1899, with Commissioner's report thereon, referred by Corporation Resolution No. 10982, dated the 18th January 1900.

(4) Government letter, Judicial Department, No. 8966, dated the 22nd December 1899, referred by Corporation Resolution No. 12177, dated the 8th February 1900.

(5) Government letter, Judicial Department, No. 336, dated the 15th January 1900, with Commissioner's report thereon, referred by Corporation Resolution No. 925, dated the 23rd April 1900.

(6) Government letter No. 625, dated the 27th January 1899, with Commissioner's report thereon, referred by Corporation Resolution No. 4305, dated the 12th July 1900

2. With regard to the first of these six references, the Committee beg to observe as follows :—

At the date of the Committee's Report above referred to, the only point which remained unsettled between Government and the Corporation was as to the correctness of the Police accounts as made out by the Accountant-General and forwarded by Government to the Corporation with Mr. Vidal's letter No. 1412, dated the 24th February 1896 (*vide* para 7 of the Report). To this the attention of Government had been drawn in the President's letter No. 974, dated the 30th April 1896, which pointed out :

- (1) That Government had included charges on account of Harbour, Dock and other Police for the year 1892-93 and the first half of 1893-94, though the final decision to levy them was of so late a date as December 1895, and
- (2) That, on the other hand, Government had not given the Corporation the benefit of the Government of India's orders as to the local Government paying one-fourth of the total annual cost of the Police charges which were passed so far back as 1891.

The reply of Government, contained in Mr. Secretary Edgerley's letter No. 3404, dated the 16th May 1899, is to the effect that the accounts are correct, and that "if *both* suggestions of the Corporation were acceded to, coupled of course with the extension of the first to items ultimately excluded, as well as to those ultimately included, the Corporation would, in the opinion of Government, lose considerably by their proposals being accepted."

3. The Committee are of opinion that neither the original proposal of Government nor the one which they suggest in the above letter is just or equitable. It will be remembered that,

when Government first addressed the Corporation in March 1891 on the subject of the increase of the Police force, the Municipal contribution towards the cost of the City Police had averaged approximately $3\frac{1}{2}$ lakhs per year less a sum of Rs. 90,000, contributed by Government. It will be thus seen that the Government contribution was just a little more than 25 per cent. of the burden borne by the Corporation. When in the above-mentioned letter Government hinted to the Corporation that they might withdraw their contribution altogether, that body appealed to the Government of India on the subject. The reply received from the Government of India fixed the Government contribution at not less than Rs. 90,000 and not more than 25 per cent. of the total charges, and the Corporation were entitled to believe that, when the local Government fixed the amount to be contributed by them at 25 per cent. of the total charges, the Resolution would come into force from the year in which the new policy of augmenting the Police force rendered it necessary for the Corporation to pay more than the $2\frac{1}{2}$ lakhs, approximately, which they had paid up to 1891. It seems to the Committee, therefore, that so far as equity is concerned the Corporation might justly expect to have the decision of the Government of India made applicable from the time when this question was first raised in 1891, and that the adjustments of accounts should proceed, so far as the percentage of deduction is concerned, upon that basis from that year.

4. With regard to the time from whence Government should charge in the total cost of the Police the new items which have been introduced, the Committee are of opinion that the charges in respect of them should not be made till the date of the decision when it was finally settled that they were chargeable against the Corporation. It will be remembered that, when in the letter of 25th March 1891 the Corporation were suddenly informed that the total cost had risen from Rs. 3,50,000 to Rs. 6,92,000, the Corporation pressed Government to inform them how they had arrived at that amount, pointing out that the increase to the cost of the City Police, which was the occasion of that letter, was not more than Rs. 1,00,479. The information that the increase was due to the inclusion of heads which had never been included before, and which Government had repeatedly declared should not be included in the accounts, was not given to the Corporation till some time after. The Corporation then raised the question whether Government were entitled to charge heads of the character above described. The questions that were thus raised were settled by a compromise, and the Committee think that under such circumstances equity would require that the compromise should not be brought into operation except from the date of its accomplishment.

5. While, therefore, the Committee are of opinion that their claim in regard to the dates when the two matters should be brought into the account is founded upon equitable considera-

tions, they cannot but realize that the power of fixing the amount of Government contribution is legally vested in Government. Any resistance, therefore, to the way in which accounts have been adjusted by them would have little chance of success. They, therefore, recommend that the Corporation should in this matter give way to the demand of Government and allow the accounts to be adjusted in the manner which Government propose.

6. The Committee will next deal with reference No. (6), which is relative to the question of the debit to the divisible account of rents for buildings occupied by the Police, whether belonging to the Municipality or to Government. The Committee agree with the Commissioner that the general principle on which Government base their demand for a fair rent for lands and buildings belonging to them and used for Police purposes is a sound one, and that the same principle should be applied in cases of lands and buildings belonging to the Corporation, the rents of these being now fixed anew in accordance with existing values. The Committee also agree with the Commissioner that, in view of the power vested in Government by Section 62 (a) of the Municipal Act, it will be futile to ask Government to exclude from the account the rent of lands which were handed over by Government with a specific condition that no rent should be charged for them, or without any stipulation for the payment of rent. The Committee accordingly recommend that Government be informed that although it appears that in some cases land was handed over by Government on an express stipulation that rent would not be charged, and in other cases no stipulation was made for the payment of rent, yet, since the whole system of levying contribution from the Municipality for Police charges has now been put on a new basis, the Corporation will not object to rent charges being added to the divisible account, on the understanding that the rents of lands and buildings belonging both to Government and the Municipality may be fixed anew in accordance with the values now prevailing. For the settlement of details the Commissioner may be instructed to put himself in correspondence with Government and report to the Corporation the result arrived at, Government being further informed of the issue of these instructions to the Commissioner, with an intimation that it appears that in some of the cases in List B received with Judicial Department letter No. 625, dated the 27th January 1899, Municipal land has been shown as Government land and in others the ownership of the land is doubtful, and that Lists A, C, and D are accepted by the Corporation.

7. The remaining references to the Committee, viz., Nos. (2), (3), (4), and (5) are in respect of Statements of Accounts received from Government, which the Commissioner will be able to deal with on receiving the orders of the Corporation on references Nos. (1) and (6). It will be for the Commissioner on receipt of the Corporation's orders to make out the account with

Government, and submit through the Standing Committee any proposals which may be necessary for additional grants or for increase in the monthly payments to Government by the Corporation.

C. T. BURKE.
P. M. MEHTA.
D. E. WACHA.
K. M. SHROFF.
COWASJEE HORMUSJEE.
ACCACIO G. VIEGAS.

Proposed by the Hon'ble Mr. Pherozeshah M. Mehta
C. I. E., seconded by Mr. Cowasjee Hormusjee :—

“ That the Report of the Committee appointed by Corporation Resolution No. 2242, dated the 19th No. 9351. June 1899, to report as to the Police Charges payable by the Corporation, be approved and adopted.

2. “ That the President be requested to address Government, as recommended by the Committee and that a copy of the report be forwarded to the Commissioner for necessary action.”

Carried.

The Police charges from 1865 were as under :—

In	Rs.
1865	1,06,035-15- 2
1866	3,56,481-10- 9
1867	3,54,660- 5- 0
1868	3,51,543- 7- 7
1869	3,77,468- 8- 3
1870	3,53,368- 0- 0
1871	3,59,125- 7- 7
1872	3,19,966- 0-11
1873	3,61,437-15- 7
1874	3,69,640-12- 9
1875	3,44,269-13- 7
1885-86.....	3,59,223- 6- 6
1895-96.....	5,00,000- 0- 0
1902- 3.....	5,00,000- 0- 0

LICENSE DEPARTMENT.

Official Year.	No. of Inward letters.	No. of Outward letters.	No. of Notices issued.	No. of Summonses issued.	No. of Warrants executed.	No. of Licenses issued.	Revenue from License Fees.	Actual expenditure for office establishment.	REMARKS.
1889-90	2,311	Rs. a. p. 17,980 *		
1890-91	...	5,513	3,323	2,676	212	3,235	36,417 8 0	12,396	
1891-92	...	2,733	4,247	4,663	397	4,110	46,333 0 0	12,396	Mr. Douglas Bennett was Superintendent of Licenses.
1892-93	...	3,275	4,925	4,155	402	4,833	54,996 8 0	13,296	
1893-94	...	5,349	5,505	3,239	357	5,407	60,507 8 0	13,344	
1894-95	...	5,228	5,809	3,162	346	5,701	63,914 8 0	13,344	
1895-96	...	5,208	5,995	3,931	422	5,830	65,048 8 0	13,344	
1896-97	...	9,812	5,589	2,339	281	5,130	50,462 8 0	13,464	Mr. Sorabji B. Master Suprintendent of Licenses.
1897-98	...	15,633	5,893	2,115	320	5,750	63,741 8 0	14,844	
1898-99	...	14,601	5,697	1,904	250	5,598	60,646 8 0	15,468	
1899-1900	...	17,827	5,955	2,339	310	5,891	63,732 8 0	16,016	
1900-1901	...	17,111	6,167	2,140	322	5,912	63,689 0 0	16,597	

* While under the Health Department.

TOWN DUTY.

YEARS.	Gross Revenue from Town Duty.	Amount Refunded.	Net Revenue.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
1882- 3.....	11,44,222- 5-11	4,76,871- 8- 0	6,67,350-13-11
1883- 4	12,39,449- 7- 8	5,68,330-15- 0	6,71,118- 8- 8
1884- 5.....	14,35,382-14- 3	6,81,187- 7- 0	7,54,195- 7- 3
1885- 6.....	13,69,919-14- 3	6,82,889- 2- 0	6,87,030-12- 3
1886- 7.....	19,91,035-15- 6	9,82,127- 8- 0	10,08,908- 7- 6
1887- 8.....	21,06,806-11- 7	10,94,464-10- 0	10,12,342- 1- 7
1888- 9.....	15,60,916-11- 6	8,77,560- 2- 0	6,83,356- 9- 6
1889-90.....	12,61,316-12-11	5,74,881- 6- 0	6,86,435- 6-11
1890-91.....	17,67,747-13- 4	8,11,653- 0- 0	9,56,094-13- 4
1891- 2.....	20,35,537-12- 9	12,65,998- 6- 0	7,69,539- 6- 9
1892- 3.....	19,46,737- 2- 9	9,80,306-14- 0	9,66,430- 4- 9
1893- 4.....	18,20,953-11- 8	9,74,765-15- 0	8,46,187-12- 8
1894- 5.....	16,13,164- 6- 0	7,56,257- 0- 0	8,56,907- 6- 0
1895- 6.....	16,81,667- 3- 7	8,00,287-15- 0	8,81,379- 4- 7
1896- 7.....	15,30,411- 2- 1	7,86,771- 1- 0	7,43,640- 1- 1
1897- 8.....	17,29,760-15- 7	7,37,804- 5- 0	9,91,956-10- 7
1898- 9.....	22,55,540- 4-10	12,62,586-15- 0	9,92,953- 5-10
1899-00.....	26,88,002-13- 1	12,04,975-10- 0	14,83,027- 3- 1
1900- 1.....	30,84,008-10- 4	18,66,982- 2- 0	12,17,026- 8- 4

LEGAL OPINIONS &c.

SMALL CAUSES COURT JUDGMENT IN THE CASE OF ACQUISITION OF LAND AT MATHEW ROAD.

In the Bombay Court of Small Causes—Municipal Appeal
No. 2 of 1890.

Monday, 4th August 1890.

The petitioner is the owner of an oart in Girgam, which on its north side and at its north-western corner, abuts on the Mathew Road close under the French Bridge over the B. B. & C. I. Railway. On 7th December 1888, the Municipal Commissioner for the purpose of widening the Mathew Road under the powers given him by section 299 of the Bombay Municipal Act, 1888, gave the petitioner notice of his intention to take by compulsory purchase, under section 301, some of the vacant ground of this oart at this corner, and on 4th February 1889, possession was actually taken by the Municipality of the land, the subject of this petition, which it is not disputed, amounts in all $304\frac{4}{9}$ square yards. The petitioner not being satisfied with the sum offered him by the Municipality, has now filed this petition, under section 504, for the purpose of determining the amount of compensation to be paid him under section 301 of the Act, for the land so taken. The particulars of his total claim for Rs. 9,583-4-11 may be summarized thus:—

Value of $304\frac{4}{9}$ square yards of land at Rs. 23			
per square yard	Rs.	7,002	0 0
Compound wall demolished and set-back to			
present boundary	„	326	0 0
Value of 40 trees on land taken	„	686	0 0
Additional of 15 per cent. for compulsory tak-			
ing	„	1,202	0 0
11 months' interest at 5 per cent. per annum on			
the above	„	367	4 11
	Rs.	9,583	4 11

As to the value of the wall there seems to be no dispute, as to the value of the trees very little, and the petitioner admits that two of the cocoanut trees were past bearing and the four betelnut trees had not yet begun to bear, and the respondent calls no evidence to contradict him either as to this or as to the value of

bearing trees ; I should therefore allow the claim in respect of the wall in full, Rs. 326, and Rs 632 out of the Rs. 686 claimed in respect of the trees, deducting half of the value claimed for the old cocoanut trees, which, though no longer yielding fruit, can still yield leaves and toddy, and $\frac{1}{5}$ th of the value claimed for the young betel trees which, though not actually remunerative, yet would soon have become so.

As to the value of the land, I think it should be assessed on the basis of a frontage value. That is the principle followed in the *Municipal Commissioner vs. Patel Hadji Mahomed* (I. L. R. 14, Bombay 292). It is true that was a case under section 163 of the old Bombay Municipal Acts, III of 1872 and IV of 1878, not like this case under section 301 of the present Bombay Municipal Act III of 1888. But the principles enunciated by their Lordships in the judgment of the High Court in appeal from this Court at paras. 297 and 298 of the report seem to me to apply also to a case under the present Act. That is therefore an authority by which I am bound in deciding this case, and I must accordingly hold that frontage value must be paid for this strip of land, the greatest width of which at the north-west corner, fronting the angle between the B. B. & C. I. Railway and the line of the French Bridge, is about 25 feet, whence it narrows to a point westward immediately after turning the corner towards Back Bay and to about 12 feet at its eastern extremity towards the Breach Candy Road.

As to the additional 15 per cent. for the compulsory sale, there seem to me to be two difficulties in the way of the plaintiff's claim. It was argued that this additional 15 per cent. would be covered by those words of section 301 of the Bombay Municipal Act (III of 1888) which provide that "a compensation shall be paid.....to the owner of.....land acquired.....under section 298 or 299 for the value of the said land and for any loss, damage or expense sustained by such owner in consequence of the order made by the Commissioner under either of the said sections." Now the plaintiff's first difficulty is that section 299, under which this land was acquired, does not contemplate the making of any order, and in fact none was made by the Commissioner. So that even if the additional 15 per cent. on the value of the land is a loss, damage or expense sustained by the owner in consequence of its compulsory sale, yet inasmuch as to enable him to recover such loss, damage or expense, it must have resulted from an order made by the Commissioner and none was or could be made by him under the section (299), in virtue of which in the present instance the owner was compelled to sell his land, it follows that he cannot claim the additional 15 per cent. as such loss, damage or expense. It was contended by Mr. Brown, for the petitioner, that the notice given to the owner by the Commissioner under section 299 of his intention to take possession of the land implied an order to vacate it. I doubt the soundness of this contention, for suppose the Act provided a

penalty for resisting an order of the Commissioner to vacate the land, I apprehend, before the Commissioner could enforce the penalty, he would have to show that he had actually given the order, and it would not be enough for him to suggest that there was one implied in a notice that he would on a certain day take possession. So, on the other hand, if there be benefit to be derived from the order of the Commissioner, I think it lies on the person claiming that benefit to show that the order has been made.

But it was further argued the Legislature must have meant something, and on the strict construction of section 301 they would be taken to mean nothing, by the reference to a loss sustained by the owner in consequence of the order made by the Commissioner under section 299. I should therefore treat the word "order" in section 301 in reference to section 299 as equivalent to "notice."

This argument, no doubt, derives some force from the fact that in section 298 (1), providing that Commissioner may require a building to be set back, in any order which he issues under section 345 or 346 which those sections contemplate the issue, not of an order, but of a notice disapproving, approving or conditionally approving, subject to prescribed terms any proposed buildings, the word "order" has certainly been used as equivalent to notice.

But the plaintiff is then confronted with his second difficulty in the ruling of the High Court in the case to which I have already referred, the *Municipal Commissioner vs. Patel Hadji Mahomed* (I. L. R. 14th Bombay, 292). As I understand the concluding remarks of their Lordships in that judgment, they then lay down the principle as applicable to a case under the present as under the former Municipal Act, that unless the addition of 15 per cent. to the value of the land be expressly directed by the Act, it cannot be taken as an element in computing the compensation to be paid for land taken in a compulsory sale under the Act. I therefore consider that I am bound by the rulings in that case to disallow the claims for the additional 15 per cent. on the value of the land in this case.

It now only remains to determine the value of the land taken, and on that in a great measure will depend the claim for interest.

There was unfortunately no evidence of actual sales in this neighbourhood nor even of shop rents on the Mathew Road. Mr. Morris's calculation of the value of the petitioner's land from the rent of shops on other land in the neighbourhood seemed to me illegal in this respect. Having found from the rents of some shops in the neighbourhood, situated on the Breach Candy Road just at its junction with French Bridge, the value of the land on which they were built to be about Rs. 47 per square yard, he went on to say that he took about half the value of that land

to be the value of this land, and therefore considered the petitioner entitled to Rs. 23 per square yard. But on what principle he took $\frac{1}{2}$ rather than $\frac{1}{10}$ to represent the proportionate value of land on the Mathew Road as compared with land on the Girgaum Road did not appear.

Equally falacious to me, appeared Mr. Burder's equally ingenious calculation on the other side, which proved that the nearer you got to the Breach Candy Road on the Mathew Road, the less was the value of the land.

It is clear that a shop site with a frontage such as those taken by Mr. Morris as the basis of his calculation, just at the junction of two important city thoroughfares, like the Breach Candy Road and the Road through Girgaum over French Bridge, is no fair criterion of the value of the land with a frontage on a by-way like the Mathew Road, especially when that is at so much lower a level as to have the dead blank of the retaining wall of the French Bridge for its front abuttal and the B. B. & C. I. Railway line to the side. It is also clear that the nearer you rise to the level of the French Bridge, and the nearer you get to the junction of the two important city thoroughfares, the more desirable does the land become as a shop site. The land in suit is a curved piece consisting of portions of the front compounds of three small bungalows, the nearest of which to the nearest of the shop on Breach Candy Road taken by Mr. Morris as the basis of his calculation, is yet separated from it by two other small bungalows and their compounds. The petitioner's three bungalows are respectively numbered 213, 214 and 215. The first of these is the nearest to Breach Candy Road, the second the next nearest and the third the furthest. For the reason I have stated, I think the petitioner's land would decrease in value the further you go along the Mathew Road away from the Breach Candy Road end, I think, therefore, the fairest system of valuation is to take, not the same rate for the whole land, as the Engineers on both sides have done, but a higher rate for that taken from No. 213 and a lower rate for that taken from No. 215 than for those taken from No. 214. Now there were taken from No. 215, 188 square yards, from No. 214, 84 square yards, and from No. 213, 32 square yards, and a fraction which Mr. Morris put at 16, but which to make up the admitted total of $304\frac{4}{9}$ square yards, we must take to be $\frac{4}{9}$ square yards.

The petitioner's surveyor, Mr. Kanga, calculated the value of the petitioner's land to be Rs. 18 per square yard, having found the value of land within $\frac{1}{4}$ mile radius on the Breach Candy Road, to range between Rs. 15 and 20. This, I think, much more nearly represents the true value than Mr. Morris's Rs. 23, which for the reasons I have given cannot be accepted. But having regard to the fact that there is other land on the Mathew Road intervening between the petitioner's most desirable plot and

the Breach Candy Road, and to the consideration I have indicated as showing that the land at this corner decreases in value as you go further from the Breach Candy Road, I do not think Mr. Kanga's highest valuation of Rs. 18 for Mathew Road sites, ought to be put on the petitioner's $32\frac{4}{5}$ square yards in No. 213; I should therefore value these at Rs. 17 per square yard. Then for the 84 square yards in the same line, but further from the Breach Candy Road, I should allow Rs. 15 per square yard, while for the 188 square yards at and round the corner in the angle between the railway and the bridge, I should not allow more than Rs. 12 per square yard. We thus get Rs. 4,067-9-0 as the total value of the land. This sum *plus* Rs. 326 for the wall, and Rs. 632 for the trees already allowed, makes Rs. 5,025-9-0 as the full amount of compensation due to the petitioner. The offer of Rs. 5,256, contained in the Municipal Commissioner's letter of 26th March 1889 was an offer of a lump sum in full of all demands made without prejudice, and the petitioner cannot therefore rely on it as an admission binding the Municipality not to pay less than that sum. I therefore award the sum I have now found Rs. 5,025-9-0 as the compensation payable under section 301 of the Bombay Municipal Act, 1888. Possession was taken by the Municipal Commissioner on 4th February 1889, and the purchase money then became payable, but in spite of the petitioner's letter of demand of 19th February 1889 and two subsequent reminders on 7th and 21st March, no offer of any payment was made till that of 26th March 1889. The petitioner is therefore entitled to interest on his purchase money from 4th February to 26th March 1889. Had he accepted the offer then made of a lump sum greater than the sum now awarded, and more than sufficient to cover the amount of the interest now allowed, no further interest would have accrued due. As he refused that offer and took these proceedings for the purpose of making an unsuccessful attempt to have that sum increased, no subsequent interest should be allowed. As the sum now awarded with the interest allowed is less than the lump sum in full of all demands originally offered, it follows that the present proceedings were unnecessary, and the petitioner should therefore not be allowed his court costs of the petition. Moreover, as he has put the Municipal Commissioner to the expense of resisting the claim which he has failed to establish for a sum greater than the lump sum offered to him, the petitioner must pay the respondent's professional costs for two full days of hearing, Rs. 90.

The order on the petition will therefore be that the respondents do pay to the petitioner the sum of Rs. 5,025-9-0 with interest at 5 per cent. per annum from 4th February 1889 to 26th March 1889, but without costs, and that the petitioner do pay to the respondent, his professional costs, Rs. 90.

Ex-parte THE MUNICIPAL CORPORATION OF THE CITY
OF BOMBAY.

Re REFERRING BUDGET TO TOWN COUNCIL FOR
FURTHER CONSIDERATION.

CASE FOR THE OPINION OF COUNSEL.

By Section 34 of the Bombay Municipal Acts of 1872 and 1878, as amended by Bombay Act VI of 1882, it is provided that, on or before the 20th of November in each year, the Municipal Commissioner shall lay before the Town Council an Estimate of the proposed expenditure of the Municipality for the year commencing on the 1st of April then next succeeding, in such detail and form as the Town Council shall from time to time by order in that behalf direct, and that the Town Council shall forthwith proceed to consider the said Estimate, and shall have power to approve or to reject or to alter all or any of the items entered therein, provided that no alterations are to be made which are inconsistent with the provisions of any Act for the time being in force for the regulation of the Corporation.

By Section 35 the Town Council, with the assistance of the Municipal Commissioner, are required every year to prepare a Budget containing the estimate of expenditure as approved by them, and also an estimate of the Municipal income available for the purpose and proposals as to the amount of rates, taxes and duties necessary to be levied for the purpose of meeting such expenditure, and for providing, at the close of the year, a cash balance of not less than one lac of rupees, and the same section further provides that, at a Special General Meeting of the Corporation to be held on or before the 10th day of January in each year, the Chairman of the Town Council shall lay before the Corporation the said Budget, and that such Budget shall be printed and circulated to the members of the Corporation fourteen days before the holding of the said Special General Meeting.

Section 36 is the section upon which arises the question on which Counsel's opinion is now sought. It runs as follows :—

“It shall be in the discretion of the Corporation to pass the said Budget or to refer it to the Town Council for further consideration, or finally to reject or modify any items entered in the Budget of which they may not approve. But no proposal involving further expenditure or the levy or abolition of taxes shall be submitted to the Corporation without having been first left with the Secretary to the Town Council not later than six days before the Special General Meeting held in accordance with the preceding section.”

At the adjourned Special General Meeting of the Corporation held on Monday, the 30th January 1888, for the further consideration of the Budget Estimates for the ensuing year commen-

cing 1st April next, a resolution was moved to the effect that the Estimate of the expenditure for the Fire Brigade be sanctioned, whereupon an amendment was proposed as follows:—

“That the Detailed Statement No. 7, containing the Budget Estimate for the Fire Brigade, be returned to the Town Council, with a request that they will provide the Corporation with fuller explanation under this head, &c., &c.”

Upon this a question was raised whether, under the terms of Section 36 of the Acts, the Budget, if referred back to the Town Council at all, must not be so referred back as a whole. It was thereupon brought to the notice of the Chairman of the Corporation that, at an adjourned meeting held on the 27th January 1883 when the Budget Estimates for 1883-84 were under discussion, it had been proposed that such Budget Estimates be referred back to the Town Council with a request that the expenditure be reduced, &c., and that, upon that occasion, the presiding authority ruled that “if this proposal had been made when the Budget Estimates were first presented and the proposition had been to refer back the Budget as a whole, the motion would have been in order. The Corporation had, however, already discussed one-half of the Budget, namely, the income, and had fixed the same, and the mover of the amendment was out of order.” Following this precedent, the Chairman of the Corporation ruled, though with some reluctance, at the meeting held on the 30th of January last, that Section 36 does make it incumbent on the Corporation to refer back the whole Budget, if at all, and that the first part of the amendment was not in order. The amendment, so far as it related to the referring back of the Estimate, was withdrawn, and the original motion was passed; but, before the meeting, separated, it was decided that Counsel’s opinion be obtained upon the point whether, having regard to the words of Section 36, it is competent to the Corporation to refer back to the Town Council any one or more particular section only of the Budget Estimates, it may think fit, which may come under consideration of the meeting at a period many days later than when such Estimates were first placed before the Special General Meeting.

Counsel will find that by Section 67 of the Municipal Acts, it is provided that at the Special General Meeting to be held in accordance with Section 35, or on any adjournment thereof, the Corporation shall fix the rates at which the rates, taxes, tolls, and duties leviable under the Act shall be levied for the year commencing on the 1st day of April next ensuing, and that the rates shall be fixed before the 15th of January in each year, and shall not be altered before the next succeeding month of January. The rates in question, of course, form a most important part of the proposals contained in the Budget.

In accordance with this section the rates at which the rates, taxes, tolls and duties leviable are to be levied for the next year

were duly fixed prior to the 15th of January last, when considering the Budget Estimates of Income.

It need hardly be pointed out that, if referring back the Budget to the Town Council as provided in Section 36 necessarily involves referring it back as a whole, and if by virtue of such reference it were open to the Town Council, when reconsidering it, to alter portions already dealt with and decided on by the Corporation, or if, after reconsideration by the Town Council on its again coming before the Corporation, it were to be open to the latter to re-open questions already disposed of by them when it was originally before them, the most serious inconvenience might be the result. With regard to this latter question, it is presumed that, at any rate, the Corporation would be bound by Rule 20 of their Rules (sent herewith) for conduct and regulation of business at their meetings, and would not be able to re-open a question until after the lapse of three months from the date when it was disposed of. The Rules in question are the Rules now in force under Section 18 of the Act.

Counsel is requested to advise the Corporation—

1. If the Budget be referred to the Town Council by the Corporation for further consideration under Section 36, is it competent to the Corporation, when so referring it, to limit the Town Council, so far as any alteration or revision of the Budget is concerned, to any specific item or items?
2. Is it competent to the Corporation to refer to the Town Council, for further consideration under that section, a specific portion or portions only of the Budget?
3. If the Budget be referred to the Town Council for further consideration with special reference only to certain specific items or portions of it, would it be competent to the Town Council to revise it as a whole, and alter other portions (a) which had already been disposed of and passed by the Corporation or (b) which had not, at the time of such reference to the Town Council, been taken into consideration by the Corporation?
4. When the Budget has been reconsidered by the Town Council upon such a reference from the Corporation, is it open to the Corporation, when it comes back to them, to treat the whole Budget *de novo* and to re-open portions of it already decided upon by them prior to such reference (a) within, or (b) after the lapse of three months from the date of such decision?
5. When can the Budget or a portion of the Budget (if Counsel thinks the latter admissible) be referred to the Town Council by the Corporation for further consideration? Must such reference be before the Corporation proceed to decide definitely on any portion, or may it be at any time during their consideration of the Budget as occasion arises, or may any references of portions be reserved till after the remainder of the Budget is disposed of?

6. Having regard to Section 67 of the Act, it is presumed that the rates therein referred to, having once been fixed by the Corporation, cannot, after the 15th January, be altered either by the Corporation or Town Council, whether the Budget be or be not referred by the former to the latter for further consideration. Is this so?

And to advise generally.

OPINION.

1 & 2. In my opinion the Corporation, under Section 36, must either—

- (a) pass the Budget;
- (b) refer the whole Budget back to the Town Council for further consideration; or
- (c) itself reject or modify all or any of the items entered in the Budget, and has no power to refer back part of the Budget for further consideration, though, of course, they can ask for further information, &c.

The scheme of the section seems to be, that first the Corporation should consider the Budget as a whole, and whether it should be referred back or not. Then that they should fix the taxes, &c., so as to produce a sufficient income, and then scrutinise the expenditure items and accept, reject, or modify them. The section does not in terms enact that the Budget shall, if referred back, be referred back in the first instance; but it seems to be implied that this course must be adopted, for the Budget cannot, as a whole, be referred back after some of its component parts (*e. g.*, the determination of the taxes and income) have been irrevocably settled, and there is in the section no provision for referring back the Budget piece-meal.

If the section could be read as authorising a partial or piece-meal referring back of the Budget (and I think it cannot be so read), the Town Council could only, I think, deal with the part referred back to them.

3. As before pointed out, I think that the Budget cannot be referred back after it has been partially dealt with. If it were then referred back, it would be for the purpose of having a new Budget prepared. This consequence shows almost to demonstration that it is too late to refer it back after it has been partially settled.

4. If the whole Budget is referred back at a later stage, than the stage at which I think that it is competent for the Corporation to refer it back, this extraordinary consequence would follow. The Town Council could recast the Budget, for there is nothing in the Act to prevent their doing so (except, perhaps, that the concluding clause of Section 34 might prevent their dealing with the taxes after they are fixed), while the Corporation would be bound, by the resolution they had already passed, for three months at least.

5. In my opinion the Budget, as it must be referred back as a whole, cannot be referred back after a portion of it has been definitely settled.

6. This is clearly so.

7. As the Corporation has the power of itself finally settling all the items in the Budget, there is no reason for supposing that the legislature intended that it should have the power of remitting items for the reconsideration of the Town Council or of indirectly bringing about that result by remitting the Budget partially settled to the Town Council. Exactly the same object would be gained by the Corporation obtaining further information from the Town Council or Commissioner, and acting itself upon it. If I am in error in thinking that a partially considered and partially settled Budget cannot be referred back, then there are no provisions in the Act directing how such partially fixed Budget is to be dealt with either by the Town Council or by the Corporation when it again comes before them. It is mere guesswork to consider what the result of such action would be. I can therefore only guess that, if that procedure were allowable under the Act, the legislature would have provided that it should not be open either to the Town Council or the Corporation to review the items already passed by the latter before such reference.

CHARLES F. FARRAN.

BOMBAY, 9th February 1888.

ALLEGED MALPRACTICES AT ELECTIONS.

No. 17316 OF 1897-98.

BOMBAY, 9th October 1897.

TO THE MUNICIPAL SECRETARY.

SIR,—In reply to Corporation Resolution No. 3520 dated 5th July 1897, expediting report on certain malpractices at Municipal Elections, I have the honor to state that such malpractices as the hustling of voters by the agents of candidates and the false personification of voters not entitled to vote can be prevented by the candidates themselves.

The following is an instance of what frequently happens during the afternoon of the 'Polling Day.' A carriage drives up to the 'Polling Place' with one or more voters inside. On alighting, they are immediately surrounded by several candidates' agents, who pull them about until one or more of the agents succeed in carrying off the voter or voters to the tent or *mandap* provided by the candidate for the accommodation of his clients and the filling up of his voting papers.

Many complaints have been received during the elections from the voters as to the way they have been treated by the candidates' agents, but beyond remonstrance with the agents and speaking to the candidates themselves there is no legal power of interference.

This malpractice takes place chiefly outside the polling place, and the police might possibly be able to exercise some further check on it. The false personification is a more serious matter, and its prevention requires careful consideration.

A member of the Corporation has suggested that only one agent and one voter for each candidate should be allowed into the polling place at a time, but the provisions of section 28 (j) of the Municipal Act will not permit of this course being adopted.

Under paragraph 11 of the instructions issued by the Commissioner to Polling Officers (copy of which is forwarded herewith), if another voting paper is subsequently tendered in the name already initialled in the Election Roll (see para. 10), the 'Polling Officer' is to receive it and save in case of objection (see para. 12) is to dispose of it in the manner prescribed in the last preceding clause, *i.e.*, para. 10. The consequence of this is that several people have at times represented one voter.

Counsel's opinion was taken on the matter and runs as follows :

"Where a vote offered by the person really entitled to vote is refused by the Polling Officer on the ground that he has already received a vote from a person alleging himself to be the person enrolled in that name, does this amount to an improper refusal of a vote [section 33 (1)] ?"

The opinion given by Mr. Macpherson on the 24th January 1895 (after the last general election) was to this effect :

"I do not think a refusal by the Polling Officer under such circumstances would be an improper refusal. On the contrary I think refusal would be the right course for the 'Polling Officer' to adopt, as the vote first accepted would be rightly accepted in the absence of challenge. The person really entitled to vote would have his remedy under the word 'For any other cause' in section 33 (1) by application to the Chief Judge of the Small Causes Court."

It will therefore be necessary to make an alteration in the existing instructions to Polling Officers.

From the above remarks it will be seen that the prevention of these malpractices rests entirely with the candidates, and it is surely not too much to expect that gentlemen aspiring to a seat in the Corporation will at the ensuing general election prevent the hustling of voters outside the 'Polling Place' and co-operate with the Municipal Officers as far as possible in checking the presentation of false votes.

As regards large *mandaps*, such as the one erected in B Ward at election time, I would suggest that in future only election officials and two electors on behalf of each candidate be allowed

to remain in the *mandap*. The voting paper being filled in, the elector would pass into the 'Polling Place,' where he would be met by an official who would direct him where to record his vote. The two abovementioned electors on behalf of each candidate would then have an opportunity of challenging under section 28 (j). The false personification is now remedied by scrutiny of the votes and the rejection by the Commissioner of one or more of those presented in the same name.

I forward herewith a copy of the opinion of the Municipal Solicitors, dated 27th September, on the points referred to them and propose to alter the Polling Officer's instructions accordingly and take an early opportunity of amending the Act as suggested.—I have, &c.,

P. C. H. SNOW, Commissioner.

GENERAL ELECTIONS OF COUNCILLORS UNDER THE CITY OF BOMBAY MUNICIPAL ACT, 1888.

WARD ELECTIONS.

Instructions to Polling Officers.

On Monday, 25th January 1892, the Polling will commence at 9 A.M. and close at 6 P.M. (Bombay time) precisely. Polling Officers are to be present at the Polling place during the whole of that time.

2. Each Polling Officer will be provided with—

- (1) a complete alphabetical extract from the Ward Roll containing the names of all persons whose votes can be received by such Polling Officer;
- (2) a locked box in which unchallenged voting papers are to be deposited as they are received (*see* Clause 10);
- (3) forms of challenge and a list for recording challenged votes (*see* clauses 12 and 13).

3. No persons but the Polling Officers, and other persons specially authorized by the Commissioner in this behalf, are to be allowed to enter behind the polling tables.

4. Besides the Polling Officers a clerk will be stationed at each polling place with a stock of voting papers available for issue to such persons entitled to vote as may require them.

5. No voting paper is to be received by the Polling Officers unless it is one supplied by the Commissioner for the Ward in question from his office or under the last preceding clause.

6. It will be observed that in column 6 of the voting paper the names of those persons are entered, for whom *alone* votes can be received. The Polling Officers will decline to receive votes tendered for any other persons.

7. No voting paper is to be received unless it is signed (in the manner prescribed in the voting paper) *in the presence of the Polling Officer*.

8. No voting paper is to be received unless the name of the person who signs it under the last preceding clause is enrolled in the Ward Roll :

(a) provided, however, that where the name of a Joint Stock Company is enrolled, the Secretary, Agent or Manager of the said Company may vote on its behalf irrespectively of the fact of such person voting also or being entitled to vote in his own individual capacity ;

(b) provided also that where the name of a Company (other than a Joint Stock Company) or firm is enrolled any person who holds a *special* power-of-attorney in that behalf (duly stamped with a stamp of one rupee) may sign for such Company or firm irrespectively of the fact of such person voting also or being entitled to vote in his own individual capacity.

Instructions
to Polling
officers.

9. If a person is enrolled in the Ward Roll as a voter, not only in his own individual capacity, but also as the representative of an undivided family or of an association or of trustees, he can vote in every such capacity.

10. Immediately on a voting paper being received and signed, the Polling Officer is to attest it and enter the consecutive number in the first column of the voting paper. He is also to enter the number with his initials against the name of the voter in the Roll and save in case of objection (*see* clause 12) is to drop the voting paper into the voting box.

11. If another voting paper is subsequently tendered in a name already initialled in the Roll as above, the Polling Officer is to receive it and save in case of objection (*see* clause 12) is to dispose of it in the manner prescribed in the last preceding clause.

12. No questions except the two following or either of them are to be put to a voter, and neither of these questions are to be put *unless the Polling Officer is required to put them*, either by a person whose name is entered in column 6 of the voting paper or by two persons whose names are enrolled in the Ward Roll :—

(a) Are you the person enrolled in the Ward Roll as follows ? (Read the whole entry from the Roll.)

(b) Have you already voted at the present election or at any election being at present held for any other Ward ?

When one or either of these questions has been asked, the voting paper shall not be received until the question has been answered, and the answer to such question or questions shall be recorded by the Polling Officer under his signature in writing. When the voting paper has been received, duly signed and attested, the Polling Officer shall, besides writing his initials and the number of the voting paper against the voter's name in the Ward Roll as directed in clause 10, also write against the said name

the word "challenged." Such voting papers, together with the answers recorded as herein prescribed, shall be placed in a separate packet and not in the voting box, and the Polling Officer shall direct the parties to any such challenge to appear within three days after the poll before the Commissioner.

13. As soon as may be, after 6 P. M., the Polling Officer shall make a list of the challenged cases if any, and shall forward the list with the challenged voting papers and the recorded answers in a sealed packet to the Commissioner. He shall at the same time forward the voting boxes with their contents to the Commissioner.

H. A. ACWORTH,
Municipal Commissioner
for the City of Bombay.

MUNICIPAL OFFICES :

BOMBAY, *January 1892.* }

30, ESPLANADE ROAD,
BOMBAY, *27th September, 1897.*

To P. C. H. SNOW, Esq.,
Municipal Commissioner.

SIR,—We have the honor to state that, having regard to the opinion of Mr. Macpherson referred to by the Assessor and Collector, we agree with the latter in thinking that para 11 of the instructions to Polling Officers requires amendment. We suggest that the following might be substituted for it :—

" 11. If another voting paper is subsequently tendered in a name already initialled in the Roll as above, the Polling Officer is to refuse to receive it and is to inform the person tendering it that any objection he may desire to make to the Commissioner, in respect of such refusal, must be made in writing before 5 P. M. on the following day. The Polling Officer shall also, if requested to do so by the person tendering such voting paper, but not otherwise, write thereon the word 'rejected,' and after placing his initials thereunder, return the voting paper to that person."

The last sentence commencing "The Polling Officers shall also," &c., may possibly not be thought desirable, and we do not think it very material whether it is included or not, but we have suggested it because it seems to us that a person whose voting paper is rejected may reasonably ask to have that voting paper identified in view to any objection or application he may desire to make to the Commissioner under section 28 (p) or to the Chief Judge of the Small Cause Court under section 33 (l) of the Municipal Act.

The only malpractice which came to our knowledge as having been resorted to at the last general elections was that of "personation," and of this apparently there were not a few glaring instances. This, of course, is a very grave evil, and is one which ought in our opinion to be susceptible of severe punishment.

As the Municipal Act at present stands it would be practically hopeless to prosecute even the actual personator for reasons which are fully illustrated and referred to in a letter which we wrote to the Assessor on the 11th June 1896 in reference to a case of personation which had been attempted in an election for D Ward a short time previously. We enclose for ready reference a copy of this letter.

As against a candidate who employs, connives at, or instigates recourse to, personation on his behalf there is at present literally no law which, so far as we are aware, can be put in force, though it is of course such a person who ought to be primarily responsible and amenable to punishment.

In order to effect that object, it would be necessary to introduce into the Act provisions somewhat analogous to those which find place in the English Municipal Corporation's Act, 1882, in which personation amongst other things is made punishable as a "corrupt practice" and if committed by or with the knowledge or consent of a candidate at a municipal election, such candidate is to be deemed to have been personally guilty of a corrupt practice, and his election, if he is elected, is rendered void, and he is subjected for seven years to certain disqualifications; amongst other things he is incapacitated from holding or exercising any corporate office or municipal franchise or being enrolled as a voter, and from acting as a justice, or holding any judicial office, &c.

It no doubt rests in a great measure (as Mr. Brunton points out) with candidates themselves to put a stop to such malpractices if they choose, but we doubt whether they can ever be effectually dealt with without some such amendment of the law as above indicated.—We have, &c.,

CRAWFORD, BURDER & Co.
BOMBAY, 11th June 1896.

R. P. BRUNTON, Esq.,

Assessor and Collector, Municipality.

SIR,—We have the honour to return herewith the voting paper and other papers which you left with us a few days ago in connection with the challenged vote tendered in the name of Nowroji Maneckji at the recent election in D Ward.

There seems to be no doubt whatever as to the facts: the person who tendered the voting paper in question and signed it "Novroji Muncherji" was in reality one Kekhushro Bejanji who, when the vote was challenged, admitted that he was the person enrolled in the Ward Roll as Novroji Muncherji and stated that he was brought to the Polling place by one Limjibhoy who was apparently busying himself in the election on behalf of one of the candidates and who, on the vote being challenged, disappeared.

The question which, under the circumstances we have had to consider, is whether either Kekhusro Bejanji by thus attempting to personate a voter, or Limjibboy by instigating him to do so, has committed an offence, for which he has rendered himself liable to prosecution; and, if so, whether it is advisable to institute proceedings.

There is (unfortunately perhaps) nothing in the Municipal Act purporting to constitute it an offence for a person to represent himself as another so far as signing and tendering a voting paper in the name of that other is concerned, nor can we find that this constitutes any offence cognizable under the Indian Penal Code, for it does not come within the definition of cheating (sec. 415), and does not therefore amount to "cheating by personation" (sec. 416). On the other hand, it was evidently the intention of the Municipal Act [secs. 28 (k) and 473] that, if the person went a step further and gave an untrue answer to either of the questions contemplated by section 28 (j), he should be deemed to have committed the offence of furnishing false information to a public servant (Indian Penal Code, sec. 177). Kekhusro Bejanji, as a matter of fact, when these two questions were put to him, answered them truly, but we must add that, even if he had not done so, we think [notwithstanding secs. 28 (k) and 473 of the Municipal Act] that he could not have been successfully prosecuted, for the essence of the offence under section 177 of the Indian Penal Code is that the false information be given to a public servant; while, notwithstanding the provisions of section 521 of the Municipal Act, Polling Officers cannot, as regards offences cognizable under the Indian Penal Code, be regarded as public servants unless they fall within the definition (which few if any of them do) of "public servants" in that code (sec. 21). On this point see the correspondence and papers arising out of a prosecution in 1891 of one Enoch Solomon, including Counsel's opinion obtained under instructions conveyed under Commissioner's No. 20139, dated 1st December 1891, and subsequent correspondence in February and August 1892 on the subject of the amendment of the Act, which was proposed in consequence of Counsel's views.

We think under the circumstances no proceedings could be sustained against Kekhusro Bejanji or Limjibboy.—We have, &c.,

CRAWFORD, BURDER & Co.

Proposed by the Hon'ble Mr. Bhalchandra K. Bhatawadekar, seconded by Sundernath D. Khote, Esq.—

"That the following be recorded:—Letter to the Secretary, No. 17316, dated 9th October 1897, No. 7258. from the Commissioner reporting on certain malpractices at Municipal Elections."

Carried.

EX-PARTE THE MUNICIPAL CORPORATION—RE LEGALITY OR OTHERWISE OF MUNICIPAL SERVANTS INTERESTING THEMSELVES IN INVENTIONS UTILIZED BY THE MUNICIPALITY.

INSTRUCTIONS FOR COUNSEL TO ADVISE.

On the 7th September 1896 the following resolution was passed by the Municipal Corporation :—

“ That the Municipal Commissioner be requested to enquire
“ and inform the Corporation whether any and what Municipal
“ officers own or are interested in any patents connected with
“ municipal work or works under the guidance or supervision of
“ the Municipality, with all details and particulars connected
“ with such patents.”

The Commissioner, having forwarded a copy of this resolution for report to the head of each department of the Municipality on the 16th August 1897, reported to the Corporation the result of his enquiries. A printed copy of the Commissioner's report addressed to the Municipal Secretary, with a copy of a joint report by the Health Officer, Dr. Weir, and the Drainage Engineer, Mr. C. C. James, on the subject of certain designs registered by them is sent herewith.

On the 2nd September 1897 the Corporation further resolved—

“ That the consideration of the Commissioner's letter to
“ the Secretary, No. 12306, dated 16th August 1897, be
“ deferred, and the Commissioner be requested to take
“ Counsel's opinion as regards the legality or otherwise of
“ municipal servants interesting themselves in patents of
“ invention by themselves or others utilized by the Municipality.”

Counsel is referred to sections 74 to 86 inclusive (Chapter IV) of the Municipal Act, and is requested to advise the Corporation upon the question raised in the Resolution of 2nd September 1897 just quoted.

And to advise generally.

Under section 86 no person who has any share or interest in any contract with the Corporation is qualified to be a municipal servant, and if, being a municipal servant, he acquires any share or interest in such contract, he vacates his office. It follows that no municipal servant can have any contract with the Corporation (except his own contract of service), and I don't think it matters whether the municipal servant derives any personal benefit, pecuniary or otherwise, from the contract, provided there is a contract in which he is interested, *e.g.*, a contract by which the Corporation agreed with a municipal servant to use the latter's invention in consideration of paying a royalty to a charity would be a contract and within section 86. The municipal servant would be interested in such a contract. The fact of his

invention being used would be a good advertisement for him. The fact of payment of a royalty, albeit to a charity, is a protection of the servant's rights in his invention.

There can, therefore, be no *contract* whatever as to the user of a municipal servant's invention without the case falling within section 86.

There can be no objection to the Corporation using the invention, if there is no *contract* as to its user; that is, the fact of the municipal servant getting the advantage of the advertisement of his invention by such user would not, in the absence of a contract with the Corporation, matter at all.

I see nothing to prevent the inventor charging royalty to other persons who use his invention either in Bombay or elsewhere. Having regard to the provisions of section 74, clause *b*, and 77, clause *c*, the servants or officers who are bound to devote their whole time to the Corporation could not start a business to manufacture or sell their inventions; but I think they could license other persons to do so, merely receiving payment for such license by royalty or otherwise, and not themselves taking any active part in the manufacture or sale of their inventions.

J. D. INVERARITY.

February 19th, 1898.

THE BOMBAY MUNICIPALITY—*RE* COMPASSIONATE
ALLOWANCE TO THE WIDOW OF THE LATE
INSPECTOR T. GLOVER.

To P. C. H. SNOW, Esq.,

Municipal Commissioner.

Sir,—In returning the papers forwarded under your No. 975, dated the 6th instant, we have the honour to forward herewith a copy of the case which we have submitted to Counsel and of his opinion thereon on the question of the compassionate allowance to the widow of the late Inspector T. Glover.

In the absence of Mr. Inverarity and Mr. Macpherson, both of whom are at present in England, we sent the case to Mr. Scott.

It will be observed that while agreeing that under the proviso to Regulation No. 22 as it stands, and assuming it be valid, the Corporation have the power to grant a compassionate allow-

ance to the widows or heirs of deceased Municipal servants in excess of the limits prescribed by the previous portion of the same regulation, he, nevertheless, doubts the validity of the proviso in question on the ground that it omits to determine the amount of the compassionate allowance which may be given, leaving it to the absolute discretion of the Corporation. Mr. Scott, however, thinks it would be sufficient if a *maximum* amount were fixed by the proviso.—We have &c.,

CRAWFORD, BURDER & Co.

Ex parte.

CASE FOR THE OPINION OF COUNSEL.

The following are sent herewith for Counsel's perusal : viz :—

- (1) File of correspondence with reference to the compassionate allowance payable to the widow of the late Inspector T. Glover ; and
- (2) Print (at page 263 of the accompanying book) of the Regulations framed by the Standing Committee under section 81 (1) (f) of the City of Bombay Municipal Act, 1888.

The facts are shortly as follows :—

The late Inspector Thomas Glover, who had served in the Health Department of the Bombay Municipality for 22 years, died on the 1st January 1897, leaving a widow sole executrix of his will. He died of plague contracted in the discharge of his duties as an Inspector in the Health Department. His services had been of an exceptionally meritorious character, and had been specially valuable at a time when, shortly before his death, the plague had assumed very serious dimensions, and there was considerable apprehension that the employes of the Health Department would desert their services, his personal influence and zealous exertions with them in great measure conducing to their being kept to their work.

Under Regulation 22 (at page 270 of the Book) Mr. Glover's widow became entitled, as of right, after his death, to a compassionate allowance of Rs. 3,000. That amount was paid to her, but subsequently a further application was made for a special allowance, having regard to the late Mr. Glover's services and the fact that his death was due to disease undoubtedly contracted in the course of his duties.

It will be seen from the correspondence that Inspector Glover, during his service, made contributions to the Pension Fund aggregating Rs. 1,993-6-7, so that in point of fact, without taking into account interest on these contributions during the many years over which they had extended, the net result was really that the widow received only about Rs. 1,000 in excess of what had actually been paid by her husband himself.

The question was referred to us as to whether under these circumstances it was legally competent to the Corporation, in their discretion, under the proviso to Regulation 22, to grant a special compassionate allowance to Mrs. Glover, notwithstanding that under the first clause of that regulation she was, as of right, entitled to, and had actually received, a compassionate allowance on the basis thereby prescribed.

For the reasons stated in our letter of the 15th March 1898, we came to the conclusion that it was competent to the Corporation to make a grant of such special allowance, and it is upon this point that Counsel's opinion is now asked.

Counsel is requested to advise on the question stated in the Standing Committee's Resolution of the 23rd March 1898, namely—

QUERIES.

Whether the Corporation have the power under the Pension Regulations to grant a compassionate allowance to the widow or heirs of a deceased Municipal servant in excess of the limits fixed by the said regulations; and further

Whether the proposed amount of Rs. 2,000, in addition to the Rs. 3,000 which has already been paid to Mrs. Glover, would be in excess of the limits fixed by Regulation 22, having regard to the facts of the case and the terms of the proviso to that regulation.

And to advise generally.

OPINION.

Under the Pension Regulations as they stand I am of opinion that the Corporation, if the conditions specified in the proviso to Regulation 22 are fulfilled, have power to grant a compassionate allowance in excess of the limits fixed by the regulations. The effect of the proviso, assuming it to be valid, is to render it immaterial for the Corporation, when granting a special compassionate allowance, to consider whether or not the widow or relations of the deceased servant who may have been killed in discharge of his duties have already received a compassionate allowance as of right under the first clause of Regulation 22. I think Rs. 2,000, if paid to Mrs. Glover in addition to the Rs. 3,000 already paid, would be in excess of the limits prescribed by the first clause of Regulation 22. According to the basis of calculation prescribed by clause (e) of Regulation 15 the gratuity payable to Mrs. Glover, as of right, was Rs. 3,000, and there is nothing in the Regulations to show that the widow of a contributing servant who dies before taking his pension is entitled to any refund of contributions. Such contributions, I think, become part of the Municipal Fund, as premia of insurance become part of the assets of an insurance Company.

In giving the above answers I have assumed the proviso to Regulation 22 to be valid, but I doubt if it is so.

Under section 81 (f) of the Municipal Act, the Standing Committee have to frame regulations to determine the conditions under which widows shall receive compassionate allowances and the amounts of such compassionate allowances, and the proviso in question does not determine the amount of the compassionate allowance, but leaves it in the absolute discretion of the Corporation; and for that reason the proviso is, in my opinion, invalid. The invalidity can be rectified by the repeal of the proviso and the framing of a fresh regulation to the same effect, with the addition of words determining the maximum amount of the special compassionate allowance.

(Sd.) BASIL SCOTT.

9th April 1898.

ADDITIONAL TAXATION ON ACCOUNT OF CITY IMPROVEMENT TRUST.

Considered the following:—Memorandum from the Commissioner, No. 21580, dated the 29th November 1898—Forwarding, with reference to the Standing Committee's Resolution No. 7245, dated the 23rd November 1898, copy of the following letter to his address from Messrs. Crawford, Brown, Bayley & Dunlop, dated the 26th November 1898:—

“ In acknowledging the receipt of your No. 21277, dated the 24th instant, we have the honour to state that, as the payment to be made to the City Improvement Trust on 1st April 1900, pursuant to section 72 (1) of the City of Bombay Improvement Act, 1898, has to be made from the Municipal Fund, and as the Act just referred to gives no power to the Municipality to levy any special or additional taxation in order to supplement the Municipal Fund, it follows that the Municipal Act alone can be looked to for the means of providing the amount required, that is to say, no taxation can be resorted to for the purpose other than such as is authorized by the Municipal Act. The necessity for making provision for the payment however remains, and seems to entail making allowance for a cash balance at the end of year 1899-1900 (that is to say, on 31st March 1900), of the sum required to be paid to the Trust on the following day,

over and above the minimum cash balance of one lakh required by Section 126 (2) (c) of the Municipal Act. So far as the obligation to provide for the payment is concerned, it is immaterial apparently from what particular tax or portion of Municipal Fund this provision is made, provided it is made and is made without exceeding the limits of the taxing powers conferred by the Municipal Act. The answer to the question raised by the Standing Committee's resolution would therefore appear to be that a portion of the 12 per cent. at which the General Tax is proposed to be levied, or, if not, that some other adequate portion of the Municipal Fund will have to be reserved for the payment to be made on 1st April 1900. And, with reference to the addition to the resolution which the proposer suggested (but which was ruled out of order), we may add that it is quite clear that an additional sum of 2 per cent. is not, under Section 72 (1) of the City Improvement Act, also leviable on the rate-payers for general tax."

GRATUITY TO MUNICIPAL OFFICERS IN ADDITION TO PENSION.

30, ESPLANADE ROAD,
BOMBAY, 23rd October 1896.

FROM CRAWFORD, BURDER, BAYLEY, AND DUNLOP,
To P. C. H. SNOW, Esq., MUNICIPAL COMMISSIONER.

Sir,—In reply to your No. 14248, dated the 22nd instant, and to the Resolution No. 7292 forwarded therewith, we think we cannot better answer the question therein referred to us for opinion than by dealing with the Corporation's Resolution No. 6985, out of which the present point arises :

There appears to us to be considerable doubt as to the competency of the Corporation to make the proposed grant of Rs. 18,000 to Mr. Barrow "on account of specially meritorious service." As to the grant of Rs. 2,000 as honorarium for his special researches and literary labours in preparing and publishing a calendar of the old Municipal records we see no difficulty.

The powers of the Corporation in regard to the purposes for which Municipal moneys may be provided and applied are laid down by sections 61, 62, 63, and 118 of the Municipal Act. Sections 61 and 62 prescribe the purposes for which money *must* be provided, and it is obvious, of course, that the proposed grant does not fall within any of these. Section 63 vests in the Corporation a discretion in regard to providing for certain other matters ; it is only necessary, so far as this section is concerned,

to consider clause (k), for clauses (a) to (j) inclusive and clause (l) clearly have no bearing whatever on the present question ; it would be impossible in our opinion to hold that the proposed grant of Rs. 18,000 to Mr. Barrow "on account of specially meritorious service" is a measure likely "to promote public safety, health, convenience, or instruction" within the meaning of clause (k), particularly when regard is had to section 118 (d), to which we shall presently refer. As regards the Rs. 2,000 however, the case is different ; a calendar of the old Municipal records such as Mr. Barrow has in view may be, and no doubt will be, a very convenient and instructive work and one which will involve an immense amount of labour and research, and we can see no reason to doubt that a payment from Municipal money to secure the publication of such a calendar would be a proper expenditure under section 63 (k).

Section 118 contains substantive provision that the Municipal fund, "shall be applied in payment of all sums, charges, and costs necessary for the purposes specified in sections 61, 62, and 63 or for otherwise carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act, inclusive of" [clause (d)] "the salaries and other allowances of all Municipal officers and servants and all pensions, gratuities, and compassionate allowances payable under the provisions of this Act or of any schedule or regulation framed under this Act and at the time in force."

Regulations have been framed under section 81 (f) prescribing the pensions, gratuities, and compassionate allowances payable to Municipal officers on retirement, but these clearly do not authorize any such special grant as the Rs. 18,000 now proposed, and, in the absence of such authority either in the bye-laws or in the Act itself, we are unable to advise that it is legally competent to the Corporation to make the grant in the terms stated.

We return the copy of the resolution of the Corporation No. 7292, dated the 21st instant, as also the Pension Rules.—We have, &c.,

CRAWFORD, BURDER, AND Co.

RE THE BOMBAY MUNICIPALITY.

CASE FOR THE OPINION OF COUNSEL.

From the enclosed copy letter No. 6989 of the 12th instant, it will be seen that, at the adjourned monthly meeting of the Corporation held on the 12th instant, a resolution was passed (No. 6985) granting to Mr. Barrow Rs. 20,000,—Rs. 18,000 on account of specially meritorious service and Rs. 2,000 as honorarium for his special researches and literary labours in preparing and publishing a calendar of old Municipal records.

The legality of the grant having been questioned, the Commissioner is desirous of having Counsel's opinion as to the competency of the Corporation to make it.

The powers of the Corporation in regard to the purposes for which Municipal moneys may be provided and applied are found in sections 61, 62, 63, and 118 of the Municipal Act. Sections 61 and 62 prescribe for the purposes for which money must be provided, and we think it is obvious that the proposed grant of Rs. 18,000 for *especially meritorious service* cannot fall within any of these.

Section 63 gives the Corporation a discretion in regard to providing for certain other matters, and it will be seen that clauses *a* to *j* inclusive and clause *l* have clearly no bearing on the present question. As to clause *k*, unless it can be said that the grant of Rs. 18,000 on account of specially meritorious service is a measure likely to promote public safety, health, convenience, or instruction, the clause cannot apply, and this we think is clear when section 118 (*d*) is considered.

We are at present only referring to the Rs. 18,000, as we think the Rs. 2,000 should be considered separately.

By section 118 the purposes to which the Municipal fund is to be applied are set out "in payment of all sums, charges, and costs necessary for the purposes specified in sections 61, 62, and 63 or for otherwise carrying this Act into effect or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act inclusive of (*d*)."

"The salaries and other allowances of all Municipal officers and servants and all pensions, gratuities, and compassionate allowances payable under the provisions, of this Act or of any schedule or regulation framed under this Act and at the time in force."

Under section 81 (*f*) regulations have been framed prescribing the pensions, gratuities, and compassionate allowances payable to Municipal officers on retirement, but we fear these do not authorize any such special grant as the Rs. 18,000 now proposed to be given. We enclose them for Counsel's consideration.

Beyond the sections above quoted and the by-laws, we know of nothing further to which we can with advantage refer Counsel to assist him, and we take it that, unless some authority can be found in the By-laws or in the Act itself, the grant cannot be made.

So far as the Rs. 2,000 honorarium, the case is different and we think presents no difficulty as a calendar of the old Municipal records will, no doubt, prove a very convenient and instructive work and one which will involve an immense amount of labour and research, and we think Counsel will probably be of opinion that the payment from Municipal money to secure the publication of such a calendar would be a proper expenditure under section 63 (*k*).

We ought, we think, to have explained to Counsel that Mr. Barrow's service with the Municipality has extended over 26 years, and that he has earned and has been granted the maximum pension of Rupees 416-10-8 per month in respect of this service and that, according to the regulations made under section 81 (clause *f*), no further pension could be granted to him beyond this amount.

Provision is made by Regulation 15 (*d*) for a special good service pension after 30 years' service (Mr. Barrow's being however only 26) in addition to the pension payable under clause *c*, subject however to a maximum limit of Rupees 83-5-4 per month, and it was pointed out during the discussion in the Corporation when the question of this grant to Mr. Barrow was before them—and we believe correctly—that the sum of Rs. 18,000, if turned into pension, would give Mr. Barrow an additional Rs. 140 per month, bringing his pension from Rupees 416 to Rs. 556 a month, or Rupees 6,700 a year, the maximum allowed to any officer after 30 years' service being only Rs. 6,000.

From these regulations it will also be seen that in no case is any provision made for a gratuity in addition to a pension. The two seem to be dealt with entirely separately, and apparently a gratuity is given to an officer who, having completed the 5 years' service, but not 15, has not become entitled, under clause 15 (*a*), to any pension, in which case the gratuity is given to him calculated as therein provided.

QUERIES.

Counsel is therefore requested to advise as to whether the Corporation are competent to legally make the grant or any part of it specified in Resolution No. 6985 of the 12th October instant.

And to advise generally.

OPINION.

The powers of the Corporation as to the application of Municipal moneys are such, and such only, as the Act either expressly or by necessary implication confers.

As to the Rs. 18,000 now in question, the right to grant and pay that sum, or any sum, to Mr. Barrow must turn on section 118 (*d*) of the Act read in connection with the subsisting regulations as to pensions and gratuities, and I find nothing either in the section or in the regulations to justify any gratuity being given to Mr. Barrow in addition to his pension under the rules. The regulations seem to contemplate and provide for gratuities only in lieu of pensions, and not in addition thereto, and only in certain specified cases. There is provision made for special good service pension, but with a condition precedent of thirty years' service.

My answer must, therefore, be that the Corporation are not competent to make the grant of Rs. 18,000 or any part thereof, and that Mr. Barrow is entitled only to his pension under the rules.

As to the Rs. 2,000 for the Calendar, I think the grant of that sum is permissible as a provision for a measure likely to promote public convenience under section 63 (k).

JOHN MACPHERSON.

27th October 1896.

BUDGET GRANTS.

BOMBAY, 29th November 1894.

To H. A. ACWORTH, Esq., Municipal Commissioner.

SIR,—We have the honour to return the papers forwarded for opinion with your No. 19649, dated the 22nd instant. The questions upon which, as we understand, we are asked to advise are:—(1.) Whether under Section 132 of the Municipal Act, the Standing Committee can sanction the expenditure of an unexpended budget grant during any year except the year next following that for which such grant was budgetted for and adopted. (2.) Whether an unexpended balance of a budget grant for work to be executed from Loan funds is on the same footing in this respect as a grant sanctioned from current revenue. (3.) If it be so, whether such budget grant for loan work is to be treated as dating from the date of the sanction of the Corporation or from the commencement of the Budget year, or from the date of the raising of the loan.

Upon the 1st question we are of opinion that Section 132 does not admit of the Standing Committee sanctioning the expenditure of the unexpended portion of a budget grant during any year, except the year *next* following the year for which such grant was budgetted for and adopted. Consequently it is not, we think, competent to the Standing Committee to sanction the expenditure during the present year of the lapsed grants for 1892-93 and previous years, referred to in para. 8 of the Chief Accountant's letter No. 3477, dated the 21st instant. As to the 2nd question we consider that an unexpended balance of a budget grant for work for which a loan has been or is to be obtained, is on precisely the same footing, as regards the Standing Committee's power under Section 132, as a grant sanctioned

from current revenue. We think the present practice of budgetting for expenditure on Loan works as well as on works to be executed out of current revenue, is correct, and is indeed necessary, under sections 125 and 126 of the Municipal Act, the separate budget for Loan works referred to by the Chief Accountant in para. 11 of his letter is in reality a part of the "budget estimate" for the year and section 132 applies, we think, to that part just as much as to any other. And this leads us, we think, to the correct answer to the 3rd question. Expenditure on works to be executed from Loan funds has to be budgetted for in the budget estimate for the year and adopted under section 130 just as other expenditure has, and when so adopted it becomes a budget grant for the year to which the budget estimate relates, if not expended during that year, whether because the loan has not been raised or for any other reason, it lapses, subject, however, to the power of the Standing Committee, under section 132, to sanction the expenditure of the money during the next following year, but not afterwards.—We have, &c.,

CRA WFORD, BURDER & Co.

QUARRIES.

30, ESPLANADE ROAD,
BOMBAY, 17th August 1896.

TO P. C. H. SNOW, Esq., Municipal Commissioner.

SIR,—We have the honour to state, with reference to your No. 9307, dated 13th instant, that the functions of the Commissioner and Standing Committee under section 382 of the Municipal Act are clearly not restricted to lying by until the working of a quarry or the removal of stone, earth, &c., from a place has actually become dangerous or a nuisance. Whenever such working or removal is *likely* to create a nuisance, notice can be given requiring the owner to take order "for the purpose of preventing danger or of abating the nuisance arising or *likely* to arise." It is obvious that practically conditions can thus be imposed under which future working may be carried on; should those conditions be found insufficient or ineffectual, there is nothing to prevent the Commissioner from thereafter requiring (with the approval of the Standing Committee) other measures, or even the discontinuance of working altogether if that should be deemed necessary. Section 382 does not contemplate express permission being applied for or granted, but, by a requisition to take order under that section, the Commissioner and Standing Committee do in effect acquiesce in working being carried on, subject to the adoption of such

measures as have for the time being been called for. No permission, however, ought, we think, to be granted, which purports in any way to limit the power thereafter to reconsider those measures and require others. Assuming the permission granted to the Tramway Company (which we have not before us) did *not* purport to do this, it apparently would amount to nothing more than an intimation of the conditions on which working would for the time being be allowed and, as such, would be legally unobjectionable.—We have, &c.,

CRAWFORD, BURDER & Co.

APPOINTMENT OF MUNICIPAL AUDITORS.

The President said that, as some members had expressed considerable doubt regarding the procedure to be followed on this occasion, he thought it might save time if he stated at the outset that, in his opinion, it was not necessary that notice of motion of intention to propose the appointment of any particular candidate should have been given; consequently he should, if requisite, rule that any candidate might be voted for irrespective of the circumstance whether notice of intention to propose such candidate had or had not been given. He (the President) had intimated this opinion to the Secretary when the notice convening the meeting was issued, and Councillors would observe that that opinion was borne out by the opinion which he (the President) had obtained from the Hon'ble the Acting Advocate General, and which was as follows:—

“I think the ‘business specified in the notice’ of the meeting of urgency includes the business of appointing an Auditor, and therefore I do not think that a proposal by a Councillor, at the meeting (without any previous written notice to the Secretary of such proposal), that A B shall be appointed Auditor, would be out of order by reason of section 36 (k) which applies only to ‘business’ or a ‘substantive proposition not specified in the notice of meeting.’ My view being that all proposals of individuals to be appointed to the vacant post must be deemed to be within the term business ‘specified in the notice of such meeting,’ it follows that individuals may in my opinion be proposed, not only without previous notice under section 36 (k), but also without their having applied for the appointment.

“19th November 1895.

JOHN MACPHERSON.”

It followed from this, the President said, that notices of motion were not necessary in the case of meetings of urgency although there was no harm in their being given. The President further pointed out that the several notices received had apparently been framed without reference to the fact that, under section 136 of the Municipal Act, the appointment was a yearly one and the pay of the Auditors had to be fixed by the Corporation from time to time.

BOMBAY, 24TH NOVEMBER 1888.

SIR,—We have the honour to inform you that Mr. Barrow the Municipal Secretary consulted us yesterday upon the question of the appointment of Auditors and by his desire we now address you on the subject. Mr. Barrow pointed out to us that the present Auditors were appointed under the late Act in the month of December 1887 and that their appointment was under the provisions of that Act for a year only, while under the present Act (sec. 136) the Auditors are to be appointed “for each official year.” Accordingly the questions we were asked to consider were whether it would be necessary under these circumstances to appoint Auditors next month and if so, for how long—whether for a year or only the remainder of the present official year or how the interval between the expiration of the year for which the present Auditors were appointed and the commencement of the next official year should be provided for as regards the Audit of the Municipal accounts. It appears to us that clause 6 of the Transitory provisions (Schedule B to the Act) provides for the difficulty. Under that clause it seems clear that the Auditors like other Municipal Officers, holding office at the time when the present Act, came into force are to be deemed to have been appointed under the present Act, that is to say, *for the Official year*, consequently we think they will, by virtue of that provision, continue to hold office until the commencement of the next official year. The appointment of the Auditors for the next official year should, we think, be made by the Corporation *before* that year begins, for if the appointment were deferred until the first meeting of the New Corporation in April there would obviously be some period, though it might be a short one only, during which there would be in fact no Auditor, at all, and the appointment would not be, as section 136 requires for an official year, but for something less.—We have &c.

(Sd.) CRAWFORD & BUCKLAND.

RE THE DEPOSIT OF MUNICIPAL FUND.

COUNSEL'S OPINION.

QUERIES.

1. What is the exact meaning and effect of the words "subject to the control of the Corporation" as used in section 122 of the Municipal Act 1888, as amended by Section 5 of Act I of 1894.

Re the effect and meaning of the words "subject to the control of the Corporation" used in section 122.

ANSWERS.

1. In my opinion the control of the Corporation is confined to the selection of the Banks and they have nothing to do with the deposits to be made in such selected Banks.

The Corporation can decide that a particular Bank selected by the Standing Committee shall not be a Bank with whom the Municipal monies can be deposited.

In my view the section contemplates that the Standing Committee shall select a Bank or list of Banks for the purpose of depositing the Municipal monies with. When they have done so, the Corporation can negative this or that Bank, and I think they can do so at any time, *e. g.*, although Bank A might be approved of in January, they could negative it in February, after which no deposits could be made with it, although previous deposits of course would stand good for the period for which they were made.

This seems to be the only practical way of working the section, as to select a Bank at the time the deposit is to be made and then lay the matter before the Corporation would probably be inconvenient.

In my opinion the Standing Committee have no power to deposit money with a Bank until the selection by them of that Bank has been approved by the Corporation, or at any rate until the Corporation have had an opportunity of expressing disapproval of the selection, as express approval apparently is not required by the section.

2. Generally.

2. Certain Banks should be selected as Banks with whom the Municipal monies may be deposited. The list should be submitted to the Corporation and as long as they do not disapprove of any particular Bank, the Standing Committee can, when occasion arises, deposit money in any Bank in that list without further reference to the Corporation.

J D. INVERARITY.

PROPOSED UNIVERSITY OF RESEARCH.

Letter to the President from the Chairman, Provisional Committee, for the proposed University of Research, dated the 6th July 1900 :—

“ On behalf of the provisional Committee, I have the honour to forward, for the information of the Corporation, an opinion obtained from the Honourable the Advocate-General on the question whether the Corporation can legally make a contribution towards the maintenance of the University of Research, if the buildings of the University have to be located outside the present Municipal limits. You will observe that the Advocate-General has no doubt that the Corporation can legally vote a grant if it wishes to do so.

Contribution
to Institutes
outside the
limits of
Bombay.

“ 2. It appears from the resolutions of February 15th, kindly communicated to me by your predecessor, that the Corporation appointed a Committee to advise as to the extent of the assistance to be given to the University. If the Corporation should, at this stage, be able to declare the amount of grant it is prepared to give to the University, such a pronouncement would greatly help the Provisional Committee in the important deliberations in which it is at present engaged.”

COPY OF OPINION.

Q. 1.—Whether under the City of Bombay Municipal Act, Section 63, the Corporation can lawfully sanction a contribution to the projected University from year to year, or in any one year, or how, assuming that the University was located in the City of Bombay ?

A. 1.—I think the Corporation could lawfully contribute to the projected University if it was established in Bombay. The contribution could however only be for one year at a time, and each fresh yearly grant would have to be sanctioned by the Corporation.

Q. 2.—Whether they could lawfully do so in case the University was located in Bangalore or some nearer place like Poona, Khandalla, Nasik, Devlali and the like ?

A. 2.—Section 63 (b) does not in terms provide that the educational objects for which the Corporation may provide must be carried out actually in the City of Bombay, but the objects must be substantially for the benefit of the inhabitants of Bombay, though not necessarily exclusively for their benefit. I think a contribution for the expenses of the University at Bangalore could not be a contribution which could be lawfully made under Section 63 unless it was shown that the University was attended by a considerable number of the students from Bombay. *Prima facie* the establishment of the University at Bangalore would not be for the benefit of the inhabitants of Bombay, though it might afterwards prove to be so. The same remarks apply to the other places mentioned in this query.

Q. 3.—Whether they could lawfully do it, if the University were located near enough to Bombay to be practically though not actually within Bombay, say within 5 or 10 miles of it in one of the suburbs of the City, as they are now called, to which, however, the Municipal Act does not apply.

A. 3.—I think the Corporation would have power to contribute to the University if located so close to Bombay as is suggested in this query, though not actually within Municipal limits.

Q. 4.—Whether the difficulty could be obviated by locating some parts of the University buildings and appliances or its administrative office in the City and the rest outside it in Salsette.

A. 4.—See above.

Q. 5.—Can the Corporation resolve to make a building grant to the University for a period exceeding one year, the year of the Budget in which it is included.

A. 5.—I think the Corporation can make no building grant for more than one year.

23rd April 1900.

BASIL LANG.

Re THE INDIAN UNIVERSITY OF RESEARCH.

CASE FOR THE OPINION OF COUNSEL.

Mr. Jamsetji Nussarwanjee Tata of Bombay having proposed to make a munificent endowment for a University of Research to be established in India, the scheme has received the cordial support of the Government of India, at whose invitation a conference was convened at Simla in October last, and the report of that conference, together with the Resolution of the Government of India, dated the 17th November 1899, accepting the recommendation of the conference, and expressing readiness to proceed to legislation as soon as the scheme has been matured in all its details, will be found amongst the printed papers sent herewith.

By a letter from the Hon'ble Mr. Justice Candy, Chairman, Provisional Committee for post graduate education, the Municipal Corporation have been invited to express their view, particularly as to the amount of financial help the Corporation will be prepared to give in the establishment and maintenance of the University.

The Resolution of the Corporation, dated the 15th February 1900, upon that letter will be found herewith.

By that Resolution the Corporation, amongst other things, express their view that the head-quarters of the University of Research should be located in or near the City of Bombay (it will have been seen from Mr. Justice Candy's letter and from the report of the Simla Conference that the choice of locality seemed to rest between Bangalore and Bombay). By this Resolution the Corporation held that the proposed University has a claim for assistance from this Municipality and appointed a Committee for the purpose of suggesting to what extent this assistance should be rendered and the proper manner in which it can be given.

A printed copy of the Report of this Committee, dated 27th February 1900, will be found amongst the papers sent herewith.

On the 8th March 1900, the Corporation resolved that the consideration of the Committee's Report be postponed, "and " that in the meanwhile the Commissioner be requested to obtain

"and place before the Corporation Counsel's opinion as to whether it is legally competent to the Corporation to make a monetary grant to an institution located outside the City limits."

We believe that the only provisions of the Municipal Act which throw any light upon this question are section 1 and section 63 (b).

The former provides that "except as is herein otherwise provided, it (the Act) extends only to the City of Bombay."

The latter provides that the Corporation may in their discretion provide from time to time, either wholly or partly for (amongst other matters) "Educational objects other than those set forth in Clause (g) of Section 61" viz., primary education, for which under Section 61 it is obligatory on the Corporation to make provision. There is nothing expressly extending any part of Section 63 beyond the City.

OPINION.

Counsel is under these circumstances requested to advise the Corporation upon the question stated in their Resolution of the 8th March 1900, viz., "Whether it is legally competent to the Corporation to make a monetary grant to an institution located outside the city limits" and to advise generally.

In my opinion it is not. The provisions of Section 1 of the Municipal Act limiting the extent of the Act to the City of Bombay except as is otherwise expressly provided must be borne in mind in construing section 61 and 63. They, the Corporation, would not under section 61 (b), if it stood alone, have power to construct Water Works outside the City limits, but Section 261 (a) expressly gives that power; so also with regard to the disposal of sewage Section 61 (a and c) is supplemented by Section 245. With respect however to Section 63 (b and k) there are no supplementary sections authorising expenditure on educational institutions outside the City limits and I am therefore of opinion that the Corporation can only vote money from the Municipal Fund for Educational objects which are within the City limits.

BASIL SCOTT.

29th July 1900.

HIGH COURT JUDGMENT *re*-SUIT FOR BROKERAGE AGAINST THE MUNICIPALITY.

The Hon'ble Mr. Justice Starling's Judgment in the suit for Brokerage against the Municipality, *viz* :—

COOVERJEE HIRJI *vs.* THE MUNICIPAL CORPORATION OF BOMBAY.

The following is the full text of the judgment delivered by his Lordship in the above suit and also in the suit brought by the plaintiffs against Bai Motlibai.

His Lordship, in delivering judgment, said :—Hirji Hunsraj, one of the plaintiffs in this case, has since 1889, been the municipal broker. As such his duties have been to assist the Municipal Commissioner in the purchase of land required by the Municipality. His ordinary work was to find out, if necessary, the owners of land which the Municipality required and negotiate with them for the sale of their land. Sometimes the owners were known beforehand, and in that case he was sent to them direct, but in every case his first duty was to try and buy the land in the name of some third party, subject, of course, to the approval of the Commissioner. This was evidently in the expectation that the land would be acquired in this way at a lower figure. If the owner found out that it was the Municipality who were desiring to purchase, he, of course, had to admit the fact and do the best he could. In the event of his being unable to effect a purchase at a figure which the Commissioner deemed reasonable, he seems to have been employed to get information and witnesses for the purpose of assisting the Collector to come to a decision favourable to the Municipality, when the land was taken up under the Land Acquisition Act. In the early part of 1891 it was determined by the Municipality of Bombay to take up the land for the purpose of making road, near the Byculla Club, in the Agripada district, otherwise known as the Old Race Course, and it was determined, if possible, to take up, not merely enough to make the roads, but all the land through which the roads were to run, or at any rate the frontage, in order that the Municipality might recoup themselves, to some extent at least, for the cost of the roads by selling the land abutting thereon at an increased rate. Out of this land two large plots belonged to Motlibai, the defendant in suit No. 403 of 1893, and to Muncherjee Cama. The matter was put into the hands of Hirji in the beginning of 1891, and his case is

that he negotiated with various parties during that year and the next; that in some cases he brought the negotiations to a satisfactory conclusion and the land was purchased; that in Cama's case he had in 1892 made a definite arrangement with him for the sale of his land at Rs. 3 a square yard, but that could not be definitively carried out then because the Municipal Commissioner would not purchase Cama's land until he had come to a settlement with Motlibai; that in Motlibai's case he carried on the negotiations with her or her son, or Sorabjee Shapoorjee Bengali, almost up to a final settlement, when Mr. Acworth stepped in and concluded the bargain personally with Motlibai, and that subsequently he also purchased Cama's land from him direct. In respect of these two plots of land, Hirji in this suit claims brokerage from the defendants, and the defendants deny his right to the same. At the commencement of the case it seemed to be contended, on behalf of the defendants, that Hirji could claim no brokerage in any case unless the Commissioner choose to allow it to him, and then only at such rate as the Commissioner allowed. This was the case set up by Bharucha, one of the municipal officers, in his letter to the Executive Engineer, dated 11th March, 1893 (A 28). This did not seem to accord with all the probabilities of the case, and after Mr. Acworth was examined out of order so that he might leave Bombay, it was quite clear that such a contention could not be maintained, and the only question in the case was whether Hirji had done the work and carried on the negotiations which he represented he had. Hirji had, since he commenced work as an estate broker, kept a diary which he produced in court, and from that he gave his evidence as to the interviews he had had, and the negotiations he had carried on with the parties. If that diary is genuine, if it was made up day by day, and truly represents the acts of Hirji, then, in my opinion, Hirji has proved his case and will be entitled to succeed in this suit. It therefore becomes necessary at once to examine this diary, in order to see how far it is corroborated or contradicted by what may be treated as independent evidence. Now the witness who is the most independent is Hormusjee Muncherjee Cama, the son of the Cama, whose land was bought by the Municipality. He it was who had interviews with Hirji about his father's land, and he is alleged also to have interfered, at Hirji's suggestion, in the negotiations with Motlibai. I see no reason to suppose that he has come into court with any other intention than to speak the truth, the whole truth, and nothing but the truth, and I cannot find in his cross examination any suggestion or any reason why he should do otherwise. Further, being, as I believe, a truthful witness, he does not depend for his recollection of facts entirely upon his memory, for he has kept a diary in which he used to enter matter which at the time he considered important. I will, therefore, commence by comparing his evidence and diary with Hirji's. Hirji says he had seen Muncherjee Cama and also his son Hormusjee Cama

about this land in 1891; as to the interview with the latter, Hirji is confirmed by his evidence. The first interview with the latter appears by Hirji's diary to have been on 24th February, 1891, but the interviews in this year were mere discussions and no entry is found in Cama's diary. The fact that Hirji was working is, however, shown by the letter of 9th May, 1891 (A 50), produced by Cama in his examination-in-chief. The first time any definite terms were arrived at was on the 16th January, 1892, on which date there is an entry in Hirji's diary (Exhibit 22a). On the same day Cama has an entry in his diary (A 47). Cama's is longer than Hirji's, but the two are evidently the notes made by two men of what they each thought important in one interview. Then we have a note in Hirji's diary under date 29th April 1892 (Exhibit 22c) of an interview with Cama, and, although he has no entry on that date of such an interview, yet he deposes to the fact that about that time he has several interviews with Hirjee, and, looking at the contents of exhibit 22c, it seems to me highly probable that Cama would not make any note of that occurrence. On the 6th May there is an entry in Hirji's diary (Exhibit 22e) of a conversation Hirji had with Cama in which the latter told him of an interview he had with Motlibai. Cama has no note of what he said to Hirji, but in his diary there is a note of an interview he had with Motlibai on the 4th May (A 48). These two entries confirm another entry in Hirji's diary (Exhibit 22d), in which it appears that Bharucha had told Hirji that Cama's land could not be purchased before Motlibai had come to a settlement. This, according to Cama's evidence, had been communicated to him, and the result was that he said he would go and see Motlibai with the result recorded in A 48. The next entry in Hirji's diary about Cama is on the 25th May, 1892 (Exhibit 22i), which is confirmed by the entry in Cama's diary of the same date (A 49).

The only way in which the accuracy of Cama is directly impugned with regard to these entries is in respect of the last one, of which Nowroji Wadia gives a somewhat different account. But I cannot place much reliance on his evidence. He kept no diary, and his evidence as to what took place from time to time rests only on the strength of his memory. Besides this, I consider his evidence about the letter from Hirji alleged to have been torn up by Motlibai, as very unsatisfactory, and his evidence as to Maju not being acquainted with Motlibai is contradicted by Maju when called in the suit against her. Consequently I come to the conclusion that his memory is not accurate, or else that he is keeping back what he knows to serve the purposes of his mother in her suit. I, therefore, place the greatest reliance upon the evidence and the entries in the diary of Cama, and in my opinion they show that there is every probability of the entries in Hirji's diary having been made from time to time and at the times they purport to have been

made. The other evidence which is relied upon as showing the truth of Hirji's diary does not consist of direct corroboration of the entries therein by disinterested witnesses, and it may be well to examine shortly the way in which this diary is attacked. It is not alleged that Hirji fabricated the entries from time to time, but that the entries were made after the commencement of this suit—in fact between the 7th December, 1893, when the defendant made their affidavit of documents, and the 18th December, 1893, when the plaintiffs disclosed it in their affidavit of documents, and that the intimate knowledge of facts and dates exhibited in the entries must have been acquired by an inspection of the documents disclosed by the defendant's affidavit of documents. Now the eleven days between the filing of the two affidavits is a very short time for the plaintiff to have inspected and made notes of all his adversaries' documents, to have combined them with the documents in his possession and to have therefrom fabricated some forty or fifty separate entries. Besides it is not attempted to be proved on the part of the defendants that inspection of their documents was taken between those two dates. Then it was also suggested that Hirji might have got the information by searching through the files at the Municipal Office. This would have necessitated searching through three files and taking notes therefrom, which must have been a very lengthy process, and one which could not escape attention, and yet no one is called from the Municipal Office to prove that Hirji did anything of the kind, and although it might be possible for him clandestinely to get a copy of a letter here or there, I do not think it is at all likely that so much information could be obtained from the voluminous files of the Municipality without some one knowing about it who was willing to give evidence on the point. Besides this, it must be remembered that for some months before 19th August, 1893, when the plaint was filed, Hirji and the Municipality were disputing about these matters; consequently there would be greater difficulty in his getting access to Municipal records. Further the diary contains many notes about other matters—some Municipal and some not—quite independent of the entries relating to the subject-matter of this suit; consequently Hirji must have found blank spaces at the proper places ready left to be filled in with a note relevant to this suit, or else you would expect to find crowding in some places, or entries for some days put under other dates with a note of the day to which they referred, because the date on which they ought to have been entered was occupied by another entry. The aspect of the three little books containing the entries does not suggest anything of the kind. They look as if they had been written up day by day, but that does not necessarily show that the entries are to be relied on in the way in which I must rely on them in order to give a decree for the plaintiff, and although I may be of opinion that the defendants' suggestion as to the way in which the diary

was got up fails, yet I must further examine it carefully with all the surrounding facts and documents, which I will proceed to do.

Before doing this, however, I would just notice one entry which, it is said, must be false—that is the one on the 14th June 1891 (A 53). Bharucha refers to a diary he keeps of certain matters and says that that day was a Sunday, and for a wonder he had work which took him to the Municipal Office and kept him there all day. Then from his memory he says that he did not see Hirji on that day, although the latter has noted an unimportant interview with Bharucha on that day. As far as the evidence goes, that particular Sunday was the only Sunday on which Bharucha went to the office, though it is not the only Sunday on which Hirji has noted an interview with Bharucha. The others are 25th September, 1892 (Exhibit 22 v), and 30th October, 1892 (Exhibit 23 b). Of course it may be a *bona fide* mistake on the part of Hirji and that he has noted a real interview on a wrong day. In this case it will not, on the whole, affect the weight of the diary. Bharucha says he never had an interview with Hirji on a Sunday. If that is so, and Hirji has concocted the diary, it is difficult to imagine that he would deliberately write a note of three interviews under Sundays. I do not think that this incident in itself in any way militates against the general genuineness of the diary; at any rate I do not think that the inaccuracy and falsity of this entry is so established that I can use it as a fact directly going to prove that the diary itself is fabricated. There is another entry which is attacked in much the same way (Exhibit 220), in which Hirji has noted that he had an arrangement with Bharucha to give him a share in his brokerage in the two matters now in dispute in this suit. Bharucha denies that such an arrangement existed, but such an agreement is not so improbable that I can take Bharucha's denial as a proof that it did not exist, nor on the other hand, can I, in the face of his denial, hold that the entry represents a fact, and for the purposes of this case I must leave that entry out of consideration altogether. Another point in which the diary of Hirji can be checked as against the evidence of Bharucha is in respect of the time when the Commissioner gave instructions for an offer in writing to be obtained from Motlibai. Bharucha in his evidence says that was in the beginning of September, and in A 28, written by him to the Commissioner on the 11th March, 1893, he inferentially makes the same statement, for in explaining why Hirji's services were dispensed with he writes that Hirji had been trying ineffectually for two or three months to get such an offer, and then the Commissioner took the matter into his own hands. The Commissioner took the matter into his own hands just before the middle of December, so three months before that would be the middle of September. Hirji, on the contrary, says he got no such order till the end of October, and I think the exhibits bear out his statement. On the 30th August

1892, Hirji wrote U to Bharucha, saying that Motlibai was willing to lease her land with option of purchase in Municipal bonds. Nothing seems to have been done on that immediately, as the Commissioner was then trying directly to get Motlibai to agree to sell. On the 19th September, however, Motlibai refuses to accept the Commissioner's then offer (W), but says she is open to consider any reasonable terms, and on the same day Bharucha seems to have taken up U and seen Hirji, who has an entry in his diary (Exhibit 22t) showing that he and Bharucha went through the calculations of the cost of the land under the conditions set out in U. On the next day Bharucha wrote X to the Commissioner, communicating to him the calculations which he and Hirji had gone through on the previous day. The date of X, 20th September, would indicate that the order, Commissioner to Hirji, to get an offer in writing could not have been communicated to him in the beginning of September, but the case does not stop here. On the 28th of September there is an entry in Hirji's diary to the effect that Bharucha had not been able to get an answer from the Commissioner. On X there is an endorsement by the Commissioner—"Mr. Bharucha to see me on Friday"—dated 26-10, and one by Bharucha—"I am ready to see you, 28-10-92." It was suggested by Bharucha that the "10" was a mistake for "8," but that can not be, because the 28th October was a Friday, and the 28th August was not. Then under the 30th October (which by-the-bye is a Sunday) there is an entry (Exhibit 23b in Hirji's diary which records the giving of the order to get an offer in writing from Motlibai. Then on the 31st October, there is an entry in the diary Exhibit 23c) of a letter written by Hirji, to Motlibai, and Z is a press-copy, of that letter, which asks her to send him a written agreement in terms which are substantially the same as are set forth in U. Motlibai in her evidence admits receiving three letters and in her affidavit of documents she says one was dated 31st October or 2nd November, the former date agreeing with that of which Z is the press-copy, though she says she tore it up. Of this I shall have to say more hereafter in a different connection. I think I may fairly come to the conclusion that Z was really written and did reach Motlibai. On that there is an entry in Hirji's diary (Exhibit 23) of an interview with Naorojee in which Z is referred to, and in accordance with Naorojee's suggestion, another letter is written to Motlibai on the 2nd November (A,) in which the interview with Naorojee on the previous day is referred to. This letter is not produced, but from the curious coincidence of the two alternative dates given in Motlibai's affidavit of documents with the two press-copies of letters sworn by Hirji to have been sent to her, I can have no doubt that they were both sent and both received. There is an entry of the despatch of the last letter in Hirji's diary (Exhibit 23 c). Then come a series of entries in Hirji's diary (Exhibit 23f to 23i) of interviews with Motlibai, Bengali, and Bharucha about this matter, which I need

not refer to one by one, and on 24th November, 1892, there is an entry (Exhibit 23 m) in which Hirjee notes that he on that day asked Bharucha to inform the Commissioner that he had been going constantly about Motlibai's matter and had been put off from day to day, but that he would now take care to get a clear answer. There is every probability that this interview did take place, and also the interview related in exhibits 23f to 23l because on the 26th November, 1892, Bharucha writes A3 to the Commissioner, in which he informs him that "for the last thirty days the *dalal* has been to her, frequently, but he is put off from time to time.....there is no help but to wait till the *dalal* manages to obtain the written assurance." Now taking into account the date of X, the dates of the endorsement upon it, and the mention of thirty days in A3, I come to the conclusion that the instructions for a written offer from Motlibai were not given till the end of October, which strengthens Hirji's case and shows that Bharucha is not a witness whose accuracy can be depended on. Then all Hirji's letters and the entries in his diary (see exhibit 23m) so closely fit in with X and A3 that I cannot imagine that they have been concocted for the purposes of this suit, and I regard this incident about the written offer from Motlibai as another corroboration of the genuineness of Hirji's diary. A weak attempt was made to impeach U on the ground that there was no evidence but Hirji's to prove its delivery, that it was not registered in the Municipal Register, and that they could not find the original. But Mr. Acworth says he has very little doubt that he received it, and that he often threw letters into waste paper baskets which he thought unimportant or when he thought they were useless, and it is mentioned in Hirji's letter to Murzban (A 27) and a copy sent therewith, which, Hirji swears, was, with other copies, sent therewith, admitted by Bharucha to have been sent and to be correct, and Bharucha does not contradict him. Therefore I have no doubt that U was sent and received. Exhibit X and A3 are also useful to my mind for another purpose, especially when read in conjunction with exhibit 28. They show that Mr. Acworth's present recollection of details and of what was working in his mind from time to time is not accurate. In speaking of the offer made in U and his conversation with Bharucha about it "I said it would be useless to place such an offer before the Corporation," and subsequently "I never thought the proposal to lease and subsequently purchase would be entertained by the Corporation." If that was then his opinion, I do not understand why he should have considered the matter at all, or given instructions to Hirji to get the offer in writing, and, on receipt of A3, I should have expected him at once to have told Bharucha that that kind of agreement was not what he wanted and if the Corporation would not, in his opinion, have agreed to such a transaction, I cannot understand his agreeing to buy Shival Motilal's land on very similar terms (see exhibit 28). I do not intend to discuss *seriatim* the whole

of the other entries in the diary and the correspondence between the various parties concerned prior to the 31st October, 1892, but I have been through them and taken them into consideration, and they seem to me to fit into and corroborate each other in such a way as to show that the diary of Hirji, so far as it is in evidence before the 31st October, is genuine, that certain letters said to be written before that date, the originals of which are not produced by the defendants, were really written and sent to and received by the Commissioner, and I consider that, unless I come to the conclusion that certain other matters which I shall have to discuss overthrow the impression which I have formed up to this date, I should give very great weight to Hirji's evidence as confirmed by his diary and letters, and if I had to choose between Hirji so confirmed and Bharucha unconfirmed, I should unhesitatingly give the choice to the former. Before passing on to these other matters, I may just mention one other point in which Hirji's diary receives confirmation. Exhibits 22p, 22g, and 22r relate to three matters occurring on 28th, 29th, and 30th August, 1892. The first relates to an interview with Motlibai at which an aged Parsee was present. Now Motlibai, Nanavati, and Modi admit one interview; the first two cannot give any date for it, but the third puts it before the middle of November. The two former, however, mention a lease at two annas a yard as being what was offered then by Hirji, and that agrees with exhibit 22p, and so far corroborates it. The interview described in exhibit 22p. sends Hirji to the Commissioner to seek an interview with him which exhibit 22q. shows he could not get and what is written in exhibit 22 q. is shown to be true by exhibit T, with Mr. Acworth's writing on it. The interview with Bharucha sends Hirji again to work on Motlibai as described in exhibit 22r, and what is recorded there results in Hirji writing U to Bharucha. The next matter to be discussed is whether A2 and A4 are genuine—i.e., whether Hirji wrote them on the date they bear and delivered them at the Municipal Office. I will first refer to what Mr. Acworth said about them. When shown A2, he read it and said "I never received the letter. I have not the slightest doubt about it. I was never told by plaintiff or any one else that Motlibai would sell at Rs. 3. If I had been told that, I should have closed with the offer." In cross-examination he further said, "If I had seen this letter, I should have closed with the offer contained therein. It is because I would have done this that I say I have not received it." It is evident that Mr. Acworth's impression on reading the letter in Court was that it contained a definite offer capable of acceptance. Now, when the letter is looked to there is no definite offer. The gist of the letter is that Motlibai had been inclined to lease, but some fanciful idea had got into her head as to what would happen if she had to sell for Municipal bonds and the Municipality could not pay the interest, and that therefore she seemed now to be inclined to sell out and out, but Bharucha had said he doubted whether there was money enough available

to purchase out and out and asked for instructions. In answer to this, Mr. Acworth could not have said "Accept her offer to sell." He could only have told Hirji to try and induce her to sell. Consequently I do not think that Mr. Acworth's reason for saying he is sure he never said A2 is a good one, and if not a good one, it seems to me that I cannot rely upon his memory as to whether he received it or not because his impression as to his not having received it depends entirely upon his present reading of the letter and his present idea of what he would have done if he had received it. I do not, however, think he would have done what he says he would even if it had been a more definite offer. At that time he was distrustful of Motlibai, because he thought she had resiled from her offer to give all the land he *wanted* for roads. I do not think she did refile from what she thought she was offering in the first instance, but when Mr. Acworth increased his requests after her first willingness to give, she then saw the magnitude of her offer and said she had no idea that she was wanted to part with so much land gratis. But, nevertheless, Mr. Acworth mistrusted her. Mr. Acworth had also got into his mind that Hirji had brought bogus offers. It is quite true that certain vendors had refused to carry out contracts which Hirji had reported they were willing to enter into, but I do not think the evidence, as it stands at present, shows that they had not instructed Hirji to make the offers he did make. It is not necessary in the present case to go minutely into this. Whatever are the rights of the case on this point, Mr. Acworth did not at this time quite trust Hirji, and the result of his mistrust of Motlibai and Hirji was that he about the 28th October told Bharucha he must have an offer in writing from Motlibai; consequently, if he had seriously considered A2 on the 9th November, all he would have done would have been to reiterate his instructions for a written offer, but I think it very probable that in his then state of mind he would have paid no attention whatever to A2 and put it into the waste paper basket. Consequently I cannot accept Mr. Acworth's evidence as proving that he did not receive A2. I have already expressed my opinion that Z and A were really written by Hirji to Motlibai, and that 23d is the record of a real interview with Nowrojee. The first part of A2 exactly accords with the state of things as shown by ZA and 23d, and the latter part is in accordance with an entry in Hirji's diary (Exhibit 23i). In exhibit 23i there is an entry of an interview with Bharucha on the 9th November as described in A2. It was objected, however, that there is no mention in exhibit 23i of the letter to the Commissioner. If A2 and 23i were manufactured for the purpose of the suit, at the same time there is no reason why at the end of the entry in the diary the words "wrote to the Commissioner sahib" should not have been inserted, for, though the entry fills the page for the day, there is plenty of room for such words as these. Such words do appear on some, but not all, occasions, when letters were written, and if the entry was

fabricated, I should expect them to appear. But if the entry was genuine, then I do not see the necessity of fabricating the letter, as the entry was quite sufficient for Hirji's purpose. There are other matters to be noticed about A2, but as they equally apply to A4, I will refer to them afterwards. Now as to A4, Mr. Acworth said "I never received this letter. If I had received it, I should not have gone to Motlibai myself." I very much doubt this, for Mr. Acworth had previously said in his evidence, "When I found the plaintiff had not brought a written offer from Motlibai on the 26th November" (referring to A3). "I then made up my mind to negotiate direct with her, and wrote to Bengali a few days after I received the Memo. from Bharucha." The result of this was that an appointment was made to see Motlibai on the 15th December, which could not be kept, and another appointment was then made for the 17th. Now, if Mr. Acworth was dissatisfied with Hirji and tired of waiting and had an outstanding appointment with Motlibai, the result of having taken the matter into his own hands, I feel quite sure that A4 would not have induced him to refrain from going to see that lady himself, but would have strengthened his resolution to go and see her personally, because the letter does not say that Motlibai is willing to sell, but only that she is willing to "give" and is uncertain whether the giving is to be by lease or sale, and I think the natural result of this upon Mr. Acworth's mind would be that he would seek to put an end to that uncertainty by a personal interview. Consequently I cannot accept Mr. Acworth's evidence as being by any means conclusive that he did not receive this letter. The fact is that Mr. Acworth has no independent recollection of the receipt or otherwise of any particular letter, and I am not surprised at it; consequently, when he gives reasons for saying he did not receive a particular letter, which, to my mind, are inconclusive or point it to an opposite conclusion, I must be of opinion that he really has no recollection about the matter, for, rejecting the reason for recollection, I cannot accept the denial of receipt as being of any weight. There is a reason, too, why it is very probable that Mr. Acworth received the letter and put it in the waste-paper basket. The letter finishes up with a remark about Hirji's brokerage. Now it is quite evident from Mr. Acworth's evidence that, having taken the matter into his own hands, he did not consider Hirji was entitled to brokerage, as appears from his endorsement on A6, and so it seems to me to be very unlikely that he would pay any attention to a communication, the desired answer to which would throw the matter out of his own hands back again into those of the broker and thus cause brokerage to be earned. The events after the 24th November, which led up to A4 being written, appear from exhibits 23n, 33o and 23p, and the last, if a genuine entry, thoroughly corroborates A4, though there is no mention in it of that letter having been written. On the 16th December, according to the diary, Bengali had told Hirji to call

the next day, which, according to the diary, he did, not knowing of the steps Mr. Acworth was taking, which, according to his evidence, sprang from himself and not from the suggestion of any one else, and which, according to Bharucha's evidence, were unknown to him until the afternoon of the 17th December. On the 17th Bengali gave Hirji a letter to Motlibai, which was taken by one Cooverjee who went there with Hirji, and an entry of the interview between Hirji and Motlibai appears in exhibit 23q and was communicated to Bharucha. Motlibai and Nowrojee deny this interview, and Bharucha also denies that it was communicated to him, but Cooverjee swears that he took the note to Motlibai and came away, leaving Hirji with her and Gopaldas, Hirji's man, confirms Hirji as to going to Bengali's and thence, with Cooverjee and a note, to Motlibai's, where he stopped downstairs. Having considered all that is alleged against these two witnesses, and especially Cooverjee, I have come to the conclusion that they are telling the truth. It was also argued that as Bengali was in communication with Mr. Acworth and knew that he was to see Motlibai on the afternoon of the 17th, he would not have given a note to Hirji to enable him to have an interview with Motlibai on the morning of that day. I do not take that view of the case. Bengali knew Hirji was the Municipal broker and had had many communications with him about this matter, and Mr. Acworth had also from time to time been also communicating with Bengali about the lands, so that I cannot suppose that he would see anything extraordinary in Hirji being at work contemporaneously with Mr. Acworth, especially seeing that it does not appear that Bengali had any inkling that Hirji's services had been dispensed with in any way. It seems to me exceedingly natural that, knowing that Mr. Acworth was to see Motlibai in the afternoon, Bengali should think that, in her then state of mind, a little pressure or persuasion from Hirji in the forenoon might be useful. I see no reason further why Bengali should have told Hirji about what Mr. Acworth was doing. The correspondence between the two was private, and Bengali might well think that Mr. Acworth did not want what he was doing to be known. So, too, if Hirji saw Motlibai on that morning, it seems to me to be more probable that she should say nothing about Mr. Acworth than that she should mention his name. I think, therefore, that the diary and the evidence of Cooverjee supports this letter, and having come to the conclusion that the diary is trustworthy up to the beginning of November, I do not see any reason why Hirji should commence to fabricate entries afterwards. The last ground on which these two letters are attacked is that no mention is made of them in the plaintiff's first affidavit of documents. That is true, and the way they came to light appears to be as follows:—The defendants made their affidavit of documents in December, 1893. On the 23rd February, 1894, their solicitors wrote A44, in which they informed the solicitors to the plaintiff that the Commissioner had discovered among the

loose papers on his table a letter from the plaintiff dated the 4th July, 1892, which was put in as exhibit M. Thereupon, as appears by exhibit A45, Hirji searched amongst his loose papers and found a press-copy of M, put in as exhibit A46, a press-copy of a memo dated 4th July 1892 (A55), the original of which was produced by the defendants and put in as A51 (which, however, has no direct bearing on this case), and the press-copies of the two letters of 9th November and 6th December. Hirji's explanation is that his press-copy book was kept at his house and that all letters written at his house were copied therein. These letters were composed by one Jethabhai Anundji and copied by Hirji's son. From time to time, however, it happened that, after Hirji had come up to the Fort and been to the Municipal office, a letter was required to be written, in which case he went to the office of Wadia and Ghandy, where Jethabhai was a clerk, and got him to draft and write the letter which was press-copied on a loose sheet of copying paper at that office. Hirji in this is corroborated by Jethabhai. If Cooverji, Hirji's son, was with him in the Fort and Jethabhai was pressed for time then, Cooverji fair-copied the letter after Jethabhai had drafted it. Hirji further says that, except in one instance (Exhibit E), in which a letter had been written at home and copied in the book and then was altered in the Fort and re-written, these press-copies made in the Fort were not struck into the press-copy book, but were kept among other loose papers and that, when Hirji was preparing his affidavit of documents, he did not remember these loose copies, but only looked at his press-copy book and so omitted them and that for a like reason, when writing A28 to Murzban, he omitted to make mention of M and A3 and A4. Hirji now produces a number of loose press-copies, some in the handwriting of Jethabhai, some in that of Cooverji, and some in that of another writer, but I did not have them put in, as they have no direct bearing on the case. It does not appear from the contents of M whether it was likely to have been written before Hirji went to the Fort or afterwards, but the original is produced and consequently A 46 is the press-copy of a genuine document. A51 would from its contents have probably been written after he had been to the Municipal Office and found he could not get the money he wanted, and as the original is produced, the press-copy is also that of a genuine document. Looking at the entries in Hirji's diary and the contents of A2 and A4, I am of opinion that they would be more likely to have been written in the Fort after a visit to the Municipal Office than at his house; consequently there is nothing improbable in their not appearing in the press-copy book. Jethabhai swears that E, A2, and A4 were written by him on the dates which they bear and copied at Wadia and Ghandy's Office. If Hirji had fabricated A2 and A4 after the suit was commenced, there was no necessity for him to have copied both on loose sheets of paper, for the last two letters in his press-copy book are dated 16th December 1892

(Exhibits 39 and 40). The originals of these are produced from the Municipal Offices as Nos. 42 and 43. After the pages on which these two are press-copied, there is a number of blank pages upto the end of the book, and A4 at any rate might have been press-copied at p. 411, and I have but little doubt that some place might have been found for A2, for Hirji's press-copy book is not very regularly kept, and if a letter had been a little out of date, a close scrutiny, aided by the fact that Nos. 39 and 40 are copies of genuine letters, would have shown that the fact of a letter having been copied out of date did not show that it was concocted. In fact, I think, that if A2 and A4 had been concocted, they would more likely have been copied in the press-copy book than on loose-sheets of paper. The first 270 pages of the press-copy book contain copies of letters in regular order of date as far as I can judge up to 22nd December, 1891; then comes a letter of 4th January, but whether 1891 or 1892 I cannot say; then one of 8th November, 1892; then one of 7th December, 1892; then a number of Gujarati letters. Then from pp. 283 to 299 the pages are blank, and from p. 300 letters are copied, beginning in April 1892 and going on regularly to p. 398 up to 3rd August, 1893, and the last is marked "not given," which, I suppose, means "not sent." Then comes a copy of a letter of December 1892 (I think), then a blank page. Then two Gujarati letters; then two letters of 12th October, 1892; one of 7th November, 1892; then No. 38, dated 23rd November, 1892; from Hirji to Nowrojee, which the latter says he no doubt received. Then Nos. 39 and 40, which were duly received and registered in the Municipal registers. Thus it will be seen that if A2 had been fabricated and copied somewhere on pp. 283 to 299, the irregularity in the date would have caused but little remark, if it had been discovered, and I think it probably would not have been discovered, seeing that the irregular positions on Nos. 38, 39, and 40 were not discovered. Hirji gave an explanation as to why the blank pages were left in the middle of the book, but he could give no explanation as to the irregularity in date of the letters to which I have referred. The explanation which occurs to me is that the book was not kept with absolute regularity, and that no inference is to be drawn against Hirji from that fact. Now it was not necessary for the plaintiffs' case that these two letters should have been sent, but as, it is alleged that they were written and sent, it would have a very important bearing on the case if it could be proved that they were not written or sent on the dates they bear. I have already come to the conclusion that Mr. Acworth's evidence does not satisfactorily prove that he did not receive them, and I also come to the conclusion that there is nothing in the other matters which I have discussed to prevent me giving due weight to the evidence of Jethabhai and Hirji that they were written and sent on the days they bear date. On the

whole, if it were necessary for me definitely to find on the point I should be inclined to hold that they were sent to, and received by, Mr. Acworth, and I have no doubt in arriving at the finding that the defendants have not succeeded in proving that they were fabricated. Such being my opinion, I see no reason why I should give less weight to Hirji's diary after the 31st October, 1892, than I have given to it up to that date. I will next examine the evidence of Nowrojee and Motlibai and the Parsee witnesses connected with them. Nowrojee is contradicted by Cama and Hirji as to what he said at the interview with them. Cama is a perfectly disinterested witness, and I give more weight to his evidence, corroborated by that of Hirji and the diaries of the two, than I do to that of Nowrojee. Then he said that his mother did not know Maju at all; in this Maju, called on behalf of Motlibai, contradicts him. He keeps no diary; consequently it is difficult to place any reliance as to his accuracy when he purports to relate details of conversation which took place two or three years ago. Then he at first swore that his mother had not received any letter from Hirji, but in cross-examination he has to admit that she had received one which she tore up without reading it. It is true she says the same in her defence examination, but in her affidavit of documents, which I think is more reliable, she said she had read it. Further he said his mother had never spoken to him about Hirji coming to see her. Two days afterwards he said his mother did tell him about Hirji coming to see her. This was an answer to a question as to what his mother had said to him, and a few questions after that he said he had made a mistake and that it was Pestonjee who had told him. Whether Nowrojee is intentionally stating what is false I do not pretend to determine, but it is quite evident that he is a witness upon whose testimony no reliance can be placed. Then as to Motlibai, she says she received a letter from Hirji which she tore up without reading it, because she had nothing to do with Hirji. Nowrojee's description is "she said, if she would not talk to Hirji, why should she read letters from him." Now it seems to me to be very improbable that Motlibai, getting a letter from a man whom she wants the Court to believe she knew nothing about, should not have the curiosity to see what was in the letter. I do not believe any woman or man would do this. On this point her evidence is contradicted by the statement in her affidavit of documents. Consequently I must come to the conclusion that on this point both she and Nowrojee are stating what is untrue. It is to be observed that, while Motlibai produces two letters from Hirji, she does not produce two others, one of which she says she tore up, and these two letters are, as between her and Hirji, very important ones, by keeping back which she might hope to weaken his case against her. As to the rest of her evidence, in my opinion, the most charitable way of looking at it is to accept the evidence of Drs. Boyd and Khory, and, coupling it with the fact that she was

examined in her own room, and the attack of illness which she had during the examination, to come to the conclusion that the senile decay of which the doctors speak really prevented her from being responsible for all she said, or of being capable of remembering all that took place in the years 1891 and 1892 with regard to her land at Agripada. Maju gave the principal portion of his evidence very well, but I noticed that on occasions when he had to deny having seen Motlibai there was a certain amount of hesitation and a softness in the tone of his answers quite different from the tone in which he gave the rest of his evidence. In my opinion that arose from his not speaking the truth at those times. He was to get half the commission payable by Motlibai to Hirji if he succeeded in getting her to come to terms with the Municipality; he had failed to do anything with Nowrojee, and he was on terms of comparative intimacy with Motlibai. Under these circumstances it is absolutely impossible to believe that he did not try to earn his share of commission by seeing Motlibai herself and doing his best to bring her to terms. He, however, incidentally corroborates Hirji in that he says that at the time Hirji got him to interfere in this matter, Hirji secured himself to be working in it, and spoke in such a manner as to lead him to believe that he had several interviews with Motlibai. As to Nanavati and Modi, it seems to me, that if I cannot accept the evidence of the principal witnesses as being trustworthy, I cannot place much reliance on these two witnesses as against that of Hirji, corroborated by his diary and independent evidence. The result is that as regards Motlibai's land I have come to the conclusion that Hirji has done the work which he represents was done by him, and Mr. Acworth admits that, if such be the case, he is entitled to his brokerage from the Municipality. His claim against Motlibai stands on a somewhat different footing. He may have been employed by the Municipality to get the land from Motlibai and yet not have been in any way employed by her to negotiate on her behalf, but as I accept Hirji's account of the matter, it is quite evident that he was used by her to put certain propositions before the Commissioner and to try and get him to accede to them. I must, therefore, look upon him as acting between Motlibai and the Municipality in the way in which a broker usually acts, in which case he will be entitled to his brokerage from Motlibai also. As to Cama's land, it is clear from this gentleman's evidence that he, through the exertions of Hirji, agreed in the early part of 1892 to sell his land to the Municipality for Rs. 3 a square yard and that fact was communicated by Hirji to Mr. Acworth on several occasions. Against this we have the evidence of Bharucha that Cama had agreed directly with Walton to sell at the same price as Motlibai sold, but the evidence of Cama, corroborated by the entries in his diary, shows that that was not the case, and the action of Bharucha when he sent for Cama in the end of 1892 or the beginning of

1893 is not at all consistent with the fact that Cama prior to that had a complete understanding with the Municipality direct. The fact that Cama then tried to make better terms with the Municipality than he had agreed to through Hirji is in no way inconsistent with an agreement through Hirji. The Municipality had thrown their broker over and were ignoring all that had been done by him, and Cama was quite justified in then trying to make his own terms, but it is quite evident that he had Hirji in his mind all the time because in the final agreement with the Municipality he stipulates for the payment by them of the amount of brokerage which he had agreed to pay in the beginning of 1892. Consequently I am of opinion that Hirji is entitled to recover his brokerage from the Municipality on this transaction also. I have not noticed in this judgment all the exhibits nor every piece of evidence which has been given. This is not because I have not considered that which I have not mentioned. I have done this, but I did not desire to extend a necessary long judgment, to an inordinate length. The last point to be decided is the rate of brokerage. It is admitted by Mr. Acworth that the ordinary rate is 2 per cent., and no agreement, express or implied, on the part of Hirji has been shown to take less than 2 per cent. in such cases as those in respect of which the present suits are brought; consequently I must hold that the plaintiffs are entitled to brokerage at that rate. There must, therefore, be a decree for the plaintiffs in suit No. 403 of 1893 for Rs. 18,412-4-2 and costs and interest on judgment at 6 per cent., and in suit No. 403 a decree for plaintiffs for Rs. 14,949-12-5 and costs, and interest on judgment at 6 per cent.—*Times of India*, 9th October, 1894.

LAND FOR NEW MUNICIPAL OFFICES. COUNSEL'S OPINION THEREON.

EX-PARTE THE MUNICIPAL CORPORATION OF THE
CITY OF BOMBAY.

RE

SITE ALLOTTED BY GOVERNMENT FOR NEW
MUNICIPAL OFFICE.

CASE FOR OPINION OF COUNSEL.

In the year 1883 it was determined that Government should be asked for a piece of land, measuring 6,000 square yards, opposite to the G. I. P. Railway Terminus at Bori

Bunder, as a site for the new Municipal Hall and Offices. The Municipal Commissioner accordingly applied to Government for the refusal of the plot, and inquired whether the land could be given to the Corporation, and what might be regarded as its selling value per square yard.

Government by a resolution of the 14th August 1883, (marked No. 1), stated that the plot in question "may be allotted to the Municipality as a site for the proposed Municipal Hall," that the land was valued at Rs. 30 per square yard, but that, as it was required for a purely public purpose, the Government of India would be asked whether they would authorize its being given to the Municipality without charge or at a lower price.

The Corporation by their resolution of the 21st September 1883, (No. 2), recorded the Government resolution last referred to, and tendered its thanks to Government "for the intimation contained therein of the proposal made by Government for granting a free site or one at a nominal rate for the new Municipal Hall," and a copy of this resolution of the Corporation was forwarded to Government.

The Government of India by their letter of the 4th October 1883, stated that they were unable to sanction the grant of the site free of charge, but, in deference to the recommendation of the Government of Bombay agreed to the land being made over to the Municipality on payment at the reduced rate of Rs. 15 per square yard. Accordingly the Bombay Government by their resolution of the 18th October 1883, (No. 3), directed that the Municipal Commissioner be informed "that the land is allotted to the Municipality as a site for a Municipal Hall on payment of Rs. 15 per square yard, or Rs. 90,000 in all."

This resolution was placed in due course before the Corporation who by their resolution of the 31st January 1884, (No. 4), resolved "that the site be accepted, and that a further representation be made to Government with a view to securing the land on more favourable terms."

A memorial was thereupon submitted to Government on behalf of the Corporation, (No. 5), urging the claims of the latter to special consideration in this matter, and this was forwarded by the Bombay Government for the favourable consideration of the Government of India, who, however, regretted that they were unable to comply with the application, and their decision was communicated to the Municipal Commissioner by Government resolution of the 2nd July 1884, (No. 6).

On the 12th July 1884, the Commissioner by his letter to Government, (No. 7), reported that it had been decided to proceed at once with the erection of the new Municipal Offices and Hall on the site granted, and that a notice would be published immediately, inviting architects to submit designs and offering

premia to the three most successful competitors—that it had been determined to spend a sum not exceeding five lakhs on the building, but requesting that the Government of India might be moved “to allow payment for the land (Rs. 90,000) to be deferred until after the completion of the building—say, until the year 1888-89.”

By Government resolution of the 19th July 1884, (No. 8), it was decided that the Government of India should be addressed on this point, and that the Government resolutions above referred to, of the 18th October 1883 and 2nd July 1884, (Nos. 3 and 6), should be communicated to the Solicitor to Government, and that the usual lease for the site should be prepared.

On the 27th August 1884, the Bombay Government by their resolution of that date, (No. 9), communicated to the Commissioner the sanction of the Government of India to defer until the year 1888-89 the payment of Rs. 90,000 for the land.

On the 13th October 1884, this last mentioned Government resolution was recorded by the Corporation, and it was resolved, (No. 10), “that the thanks of the Corporation be tendered to Government for the same,” and this resolution of the Corporation was communicated to Government by the Commissioner's letter of the 30th October 1884, (No. 11).

After this the ground which, when staked out and measured, was found to contain 6,007·65 square yards, was handed over to the Municipality by the Public Works Department on the 1st November 1884.

On the 19th December 1884, the foundation-stone of the new building was laid by Lord Ripon just before leaving India.

The land thus made over to the charge of the Municipality was duly railed in by them, and, subject to some alterations which have since been made in the configuration thereof by Government, (and the last of which was made in October 1885), the site has ever since continued to be in the possession of the Municipality notwithstanding that, as will presently be seen, they were afterwards invited by Government to consider, and did for a time entertain and even accept, a different site altogether, near the Sailor's Home.

On the 3rd November 1885, (No. 12), the Municipal Commissioner received from the Solicitor to Government a draft agreement for a lease of this ground for approval, and on the 23rd January, 23rd February, and 17th April 1886, he received reminders asking that the approval of this document might be expedited. A copy of this draft agreement is sent herewith, (No. 13).

On the 21st April 1886, (No. 14), the Municipal Commissioner explained to the Government Solicitor that, before approving of the draft and the boundary line shown on the plan attached to it, he had to consult the architect as to space, &c., but could not do this until the Corporation finally decided what sum was to be spent

on the buildings, and promised to lose no time in returning the draft agreement as soon as the Corporation decided this.

Shortly after this it was suggested by Government that the oval between the Prince of Wales' Statue and the Sailor's Home would be a better site for the new Municipal Offices and Hall, and some demi-official correspondence passed, which, on the 20th July 1886, resulted in Government offering, (No. 15), to hand over a site on this ground at the same rate per square yard, as was to be charged for the site opposite the G. I. P. Railway Terminus, and on the 13th August 1886, the Corporation determined, (No. 16), to accept this new site. This of course necessitated some changes in the designs, and Government moreover stipulated that nothing short of a very imposing building should be here erected. A good deal of time was taken up in negotiations with Government as to the precise alignment of the building on this site, and as to design, and at length on the 7th May 1887, the Municipal Commissioner received a letter (No. 17), from the Acting Under-Secretary to Government, Public Works Department, stating that Government awaited the report of a committee then sitting for the purpose of advising Government, in regard to the extension of the City before passing any orders on the disposal of the crescent (the ground opposite the Sailor's Home), and the alignment of the building and the space to be allotted to the Municipal Offices.

On the 9th May 1887, the Corporation appointed a committee consisting of ten of its members to consider and report, in consultation with the Commissioner, on the subject of the modified design together with plans suitable to the site near the Sailor's Home offered by Government, and generally on the subject.

This committee recommended on the 25th May 1887, (No. 18), that another suggestion which had meanwhile been made to take over the Town Hall for the purposes of the Municipal Offices should be abandoned, and further that the site opposite the Sailor's Home should be adhered to, and the Municipal Commissioner be authorized to call for designs for a building, providing for the present requirements of the Municipality and meeting with the approval of Government, to be erected at an immediate cost of five lakhs of rupees. The building to be one of such design and arrangement as to be capable of extension.

On the 13th June 1887, this report was approved and adopted by the Corporation, (No. 19), and the Commissioner was authorized to call upon Mr. Chisholm (who had been awarded the first prize for the designs invited for the site opposite the G. I. P. Railway Terminus) to prepare a fresh design.

This decision of the Corporation was communicated to Government by the Commissioner's letter of the 28th June 1887, (No. 20), in which he asked for an expression of the views of Government in regard to the style of architecture to enable Mr. Chisholm more satisfactorily to modify his designs, and after a further letter

on the 11th August 1887, asking for an early reply, the Commissioner received a letter from the Acting Under-Secretary, Public Works Department, dated 17th August 1887, (No. 21), stating that, until Government were in possession of the report of the Extension Committee before referred to, and of the views of the Municipality as to any suggestions that might be made regarding the matter in question, "Government are unable to move further in the question of site, and would prefer not to offer any opinion on the style of architecture to be adopted." About this time a proposal was made to the Corporation that they should purchase the Cathedral High School and add to it, and on the 7th November 1887 this proposal was brought before the Corporation, and another committee of that body was appointed to report on the plans and elevations, and on the configuration of the site. This committee on the 27th March 1888 made their report, (No. 22), in which they unanimously recommended the rejection of the Cathedral High School scheme, and advised the Corporation to adhere to the site on the crescent, opposite the Sailor's Home.

On the 19th April 1888, the Corporation considered this report, but determined, (No. 23), to revert to the site opposite the G. I. P. Railway Terminus at Bori Bunder, resolving "that the Acting Municipal Commissioner be instructed to proceed forthwith with the work of arranging for the building of Municipal Offices on the site at Bori Bunder already selected by the Corporation."

On the 20th April 1888, (No. 24), the Commissioner reported this decision to Government, and enquired whether they were still willing to grant the Bori Bunder site at the price originally marked, viz., Rs. 90,000, and on the 2nd July 1888 he received a reply, (No. 25), from the Public Works Department that "Government are still willing to grant the site opposite the Victoria Terminus for the new Municipal Offices in the terms of the rough agreement forwarded to you for approval in November 1885."

On the 12th November 1888, Government issued a resolution, (No. 26), that the land was allotted to the Municipality in October 1883, the charge being fixed at Rs. 90,000, that the Government of India on a special representation consented to payment being deferred until 1888-89, and that the Municipality should now be called upon to complete the lease and pay in the purchase money.

This was accordingly arranged, the money was paid, and the draft agreement for lease of the land was forwarded to the Municipal Solicitors for approval, the Commissioner at the same time (18th December 1888), (No. 27), writing to the Secretary to Government, Public Works Department, drawing attention to the fact that by the draft agreement it was provided amongst other things that the Corporation should pay a yearly rent of one anna per square yard for the term of 999 years, though no allusion to such a condition was made in the original Government resolution under which the land was allotted, and adding that he (the

Commissioner) was under the impression that for the sum of Rs. 90,000 the site was to be purchased by the Corporation outright.

On the 4th February 1889, (No. 28), the Municipal Solicitors wrote to the Government Solicitor, drawing attention to the original Government resolutions, and suggesting that the document to be executed should be a conveyance, not a lease; pointing out that the resolutions contained no provision for payment of an annual rent over and above the payment at the rate of Rs. 15 per square yard, submitting that there was in any case no necessity for such a preliminary agreement as had been proposed, and that the terms and conditions of that form of agreement (which is apparently merely a copy of some form in use in ordinary cases of leases by Government of building sites to private individuals) were many of them wholly inappropriate and unsuitable to the circumstances, and they asked that the form of document might be entirely reconsidered and remodelled.

With reference to these suggestions, Counsel's attention is particularly drawn to the form of agreement, (No. 13), which, it is thought, he will perceive, at once, to be wholly inappropriate.

On the 13th March 1889, (No. 29), the Corporation passed a resolution approving new designs which had been prepared, and on which it was estimated the building would cost about 9½ lakhs, giving instructions that the necessary steps be taken forthwith for carrying out the work; so that, if possible, the foundations might be put in before the rains, and approving of an application being made to Government for permission to project the porch and for a grant of an additional area of 560 square yards, or thereabouts, to admit of a slight improvement contemplated in the design. This was forwarded by the Commissioner with his letter, dated the 14th March 1889, (No. 30), to the Secretary to Government, Public Works Department, and on the 4th April, (No. 31), in continuation of this letter, the Commissioner wrote again to the Secretary to Government, Public Works Department, forwarding 5 tracings with explanatory remarks "as it appears that some doubts exist as to the precise demarcation of the site granted by Government", requesting immediate orders on the subject as a contract had already been let for putting in the foundations, and it was of the greatest importance that this part of the work should be completed by the beginning of the monsoon, and asking the approval of Government to tracing No. 5.

The matter of the foundations was one of such urgent importance, that on the 8th April 1889, (No. 32), the Commissioner again addressed the Secretary to Government, Public Works Department, pressing for a very early reply to his letter of the 4th idem.

Every day lost before giving orders to the contractors, who had taken the contract for the foundations, to begin their work,

was now a serious matter, and getting no answer the Commissioner wrote again to the Secretary to Government on the 12th April 1889, (No. 33), asking for the very early orders of Government "for otherwise the project of commencing operations before the monsoon must be abandoned," and he also at the time wrote demi-officially to Mr. Hughes, the Secretary to Government, Public Works Department. Some other demi-official correspondence, (Nos. 34-37), then passed, to which Counsel's attention is drawn, and particularly to Mr. Ollivant's letter to Captain Oliver, dated the 15th April 1889, which very clearly shows how matters stood at that time.

At length on 21st April 1889, (No. 38), an official reply was sent by Secretary to Government, Public Works Department, to the Commissioner's letters of the 18th December 1888, and 14th March and 4th April 1889, and by this letter the Commissioner was informed "that the allotting of a site did not imply a grant in fee simple only a grant on the usual terms;" that, under the special circumstances the usual preliminary agreement might be dispensed with, and that Government were prepared to grant a lease of the area required, as per plan No. 5, sent with the Commissioner's letter of the 4th April 1889, with one very slight modification of the boundary on the modified conditions therein stated, of which the only ones which need be specially noted are as follows:—"That the lease be for 999 years, and reserve the usual annual ground rent of 1 anna per square yard; that, for 6,000 square yards out of the total area, payment be made at the rate of Rs. 15 per square yard as originally agreed upon, and, for any additional land in excess of that area, payment be made at the rate of Rs. 40 per square yard."

On the 6th May 1889 the Corporation passed a resolution, (No. 39), accepting the terms stated in this letter, but regretting that Government had found it necessary to make any deviation as regards rate or ground rent from the terms of the original grant, and expressing a hope that the acceptance of the terms now laid down will not prevent Government from giving a favorable consideration to such further representation on the subject as the Corporation might think fit to make, and that the President be requested in communication with the Commissioner to submit the representation to Government forthwith.

Pursuant to this resolution, the President of the Corporation addressed Government on the subject on the 29th May 1889, (No. 40), and on the 19th July 1889 a reply was sent to his letter in which, for reasons assigned, the Governor in Council regretted that he was unable to comply with the requests made by the Corporation.

This reply was considered by the Corporation on the 15th August 1889, when the following resolution was passed:—

"That the consideration of letter No. 2831, dated 19th ultimo, from Government on the subject of the terms for the additional

ground taken for the site of the new Municipal Office be deferred. That, before any further land be purchased, the Municipal Commissioner be requested to instruct the Solicitors to obtain the opinion of Counsel, as to whether the Corporation is, in the circumstances that have happened, bound to take a lease in the ordinary Esplanade form, or whether they are not entitled to a lease in the ordinary form or even to a grant."

It will be seen from the foregoing statement of facts that the Bombay Government, when the site was first asked for in 1883, were in favor of its being given to the Municipality altogether free of charge, and made a recommendation to the Government of India to that effect; that it was by direction of the Government of India that it was "allotted," to the Corporation, "on payment of Rs. 15 per square yard, or Rs. 90,000 *in all*," not a word being said or a suggestion being made by the Government of India, much less by the Bombay Government, that the Corporation should be charged any ground rent for it in addition; that these terms were accepted by the Corporation and were confirmed by Government and the Corporation in the following year (1884), when the payment of Rs. 90,000 for the land was permitted to be deferred until 1888-89; that the land was handed over to the Corporation upon these terms in November 1884 and that, subject to alterations which were afterwards made by Government in the configuration of the site, the Corporation have been ever since in possession of it; that, though the Government resolution of 19th July 1884 directed that the usual *lease* should be prepared, it is evident from that resolution that the document was to be on the basis of the terms so arranged; that, though the draft agreement for lease which for the first time introduced the stipulation as to ground rent was sent to the Commissioner in November 1885, the reason why it was not looked into, and objection taken until December 1888, was that Government had themselves in the meanwhile proposed to hand over to the Corporation another site in lieu of the original one at the same rate per square yard, but were unable after much delay to make up their minds as to the details in connection with such other site, and this it was, apparently, that was the main cause, or, at any rate, one of the main causes of the Corporation eventually reverting to the original Bori Bunder site; that this decision having been arrived at and the Municipality called upon to carry out the original terms, objection was at once taken to the stipulation as to the ground rent, and to the form of agreement generally, that, without answering these objections in any way, Government suffered the Municipality to make their arrangements for proceeding with the work, and that it was, only under stress of the risk of heavy claims for damages by their contractor and of losing the working season for putting in their foundations, that the Municipality were obliged to accede to the stipulation as to ground rent and accepting a lease.

The action of Government in thus seeking to go behind and add to the clear terms of the original bargain, and then in taking advantage of their own delay in answering the application for additional ground, and of the dilemma in which the Municipality were placed in consequence, were, it is submitted, such as would in the case of a private individual, undoubtedly, have deserved to be characterized as close dealing if nothing stronger.

The Corporation, however, no doubt *have* by their resolution of the 6th May last accepted the fresh conditions, and the only legal question arising in connection with them would, therefore, seem to be whether the original terms having been definitely and unconditionally accepted by the Corporation, and the land made over to and held by them for so many years upon those terms, it was open to Government to impose fresh terms on them, and whether such fresh terms, even though accepted under pressure as aforesaid, are binding on the Corporation or are supported by any sufficient legal consideration. In this connection, it will be noticed that the additional area asked for to admit of the improved design was a matter wholly unconnected with the questions of ground rent or form of document in respect of the original site, but that, none the less, it enabled Government to bring great pressure to bear on the Municipality by delaying the reply to their application for such additional area, for, though the land was in the possession of the Municipality and work might have proceeded within the original area had it been possible to finally fix the design, this could not be done till the answer from Government was received, and it was known what design would have to be followed.

As regards the form of lease, if the Corporation must be held legally bound by their resolution of 6th May, they have apparently by it accepted the conditions of the lease as laid down in the Government letter of the 21st April 1889; in other respects, however, it is submitted that there is no valid reason why the Corporation should accept a lease containing conditions unnecessary, inappropriate, and even absurd, as some of them are such as are indicated in the draft agreement forwarded by the Government Solicitor on the 3rd November 1885; such, for instance, as the deposit with Government of Rs. 1,000 (*see* recital on page 2 of the draft), the limit of 2 years' time for the commencement and completion of work, and the stipulations as to approval of materials by the Government Surveyor, and amount to be expended in each year (paras. 1, 3, and 4 of draft), the condition as to fencing, lighting and watching the premises to the satisfaction of the Government Surveyor (para. 2), the condition as to mode of pitching the public footpaths where it became necessary to cut through them (para. 6), (these footpaths are in fact by the Municipal Act vested in and under the control of the Municipality), the provision as to submitting plans and sections showing provision for drainage to the Executive Engineer, Municipality, for approval,

and to the Architectural Executive Engineer and Surveyor (para. 9), and the inquisitorial provisions of para. 11 under which the Architect employed by the Corporation might be subjected to constant interference by the Government Surveyor.

Counsel is requested to advise on behalf of the Municipal Corporation.

OPINION.

1. Whether, having regard to the questionable manner in which Government have seized the opportunity to take advantage of the Municipality, and under all the circumstances that have happened, the Corporation are strictly bound by the new terms laid down by Government, and, if not, whether they are entitled to have a grant of the site on the original terms.

1. It appears to me that the letter of the Municipal Commissioner, dated the 28th April 1888, (No. 24), must be looked upon as the opening of new negotiations for acquiring the site in question, and that both parties treated the prior negotiations as having resulted in nothing which legally bound either the Government or the Municipality. I do not think therefore that the Corporation is legally entitled to a grant on the original terms.

In reply to the letter (No. 26) above referred to, the Government expressed its willingness to grant the site in the terms of the rough agreement forwarded in November 1885. This amounts to a proposal on the part of Government open for acceptance by the Corporation. Negotiations then ensue, and the Government proposal is modified and embodied in the letter of 21st April 1889, (No. 38), which proposal is accepted by the Corporation. Under ordinary circumstances this, of course, constitutes a contract binding upon both parties, and after consideration of all the circumstances placed before me, I fail to see that there are any, which can affect the legal position or rights of the parties. I am, then, of opinion that the Corporation is strictly bound by the new terms laid down by Government, and accepted by the Corporation.

2. Whether the Corporation are bound to take a lease in any other than the ordinary form of long building lease, except in so far as varied by any special conditions which they have accepted by their resolution of the 6th May 1889.

And to advise generally.

2. The form of lease is another matter. No one can read the draft, (No. 13), without seeing that it is singularly inappropriate in the present case. That, however, would not be a reason for its rejection, if the Corporation can be held to have agreed to accept its terms. I think that the Corporation has not so agreed. I think that, having regard to the letters which passed prior to the letter from Government of the 21st April 1889, their said letter, (though the same is not at all clearly

expressed), is intended to, and does, supersede that portion of the letter, (No. 27), which says that the grant is to be in terms of the rough agreement. I am of opinion that the Corporation has only agreed and is only bound to accept a lease containing ordinary provisions and embodying the special provisions contained in the Government letter of the 21st April 1889.

J. JARDINE.

20th December 1889.

BY-LAWS *RE* ELECTION OF MEMBERS OF THE STANDING COMMITTEE.

BOMBAY, 21st November 1891.

To H. W. BARROW, Esq., Municipal Secretary.

SIR,—We have the honour to return the papers forwarded under your No. 8896, dated the 13th instant.

The draft by-laws which have been proposed may, we think, be shortened and simplified and certainly ought, we think, in some respects to be amended. The alterations which we suggest will be found in red-ink in the print which was sent to us.

We would, in the first place, explain that our proposal to omit altogether the proposed by-laws 1 and 9 is founded upon one of the well-known rules which should be observed in the making of by-laws, namely, that a by-law must provide something in addition to the existing law and therefore must not re-enact it. Now it seems to us that the proposed By-laws Nos. 1 and 9 really, if carefully considered, purport to do no more than re-enact what has been already sufficiently clearly and on greater authority enacted by the Act itself.

Sections 43 (1) and 46 (1) expressly direct at what meetings members of the Standing Committee are to be appointed by the Corporation. Those meetings must of course be called in the manner provided by the Act, and a by-law (such as By-law 1), which merely purports to say that they shall be so called, carries matters no further and is objectionable as purporting to re-enact what the law has already provided. Similarly as regards By-law 9, the Act itself prescribes how, in the absence of any by-laws on the subject, the Standing Committee may delegate their powers or duties to Sub-Committees, so that a by-law saying that in so delegating they shall follow the provisions of the Act is, we think, for the same reason as in the first case superfluous and objectionable.

With reference to by-law 3 it seems to us that if the principle of nomination of candidates is accepted, it almost necessarily follows, that when the number of valid nominations is the same as, or less than, the number of vacancies, the nominees must be appointed. Government having therefore, as we understand, accepted the principle, will not we think see any objection to the form of By-law 3 as now proposed by us.

The few remaining alterations we have suggested in red-ink will we think speak for themselves.—We have, &c., CRAWFORD, BURDER & Co.

OMISSION OF THE PRESIDENT TO INITIAL THE BALLOT PAPERS &c., FOR ELECTION OF A MEMBER OF THE STANDING COMMITTEE.

QUESTIONS.

1. Whether assuming the President did omit to initial each ballot-paper, such omission would be held sufficient to invalidate the appointment of member of the Standing Committee then made.

2. Whether the fact that the examination of the ballot-papers by the Municipal Secretary and scrutineers was not held in the actual immediate presence of the President, would be held sufficient to invalidate such appointment.

3. Whether any, and if so, what, steps can now be taken to remedy the irregularities?

OPINION.

1. I think the omission of the President to initial each ballot-paper is not such an irregularity as would invalidate the election, as there is no suggestion that this omission affected the result of the election. The duty of the President to initial the ballot-papers was merely a ministerial and not a judicial duty. See the *Queen versus Lofthouse*, L. R. 1, Q. B., 433.

2. I am also inclined to think that the omission of the President to be present when the ballot-papers were examined would also not invalidate the election for the same reason. I am further of opinion that, as it is not suggested that the result of the elections was affected by these omissions and there was no bad faith, the High Court would not interfere with the elections (see the *Queen versus Ward*, L. R. 8, Q. B. 210).

3. I think no steps can now be taken to rectify the irregularities, and that Section 525 does not apply to a case like this.

BASIL LANG.

3rd May 1892.

ABSENCE OF MEMBERS FROM MEETING OF THE CORPORATION.

BOMBAY, 1st March 1892.

To H. A. ACWORTH, Esq., Municipal Commissioner.

SIR,—We have the honour to report that pursuant to the instructions contained in your No. 23,976, dated the 13th ultimo, we submitted for the joint opinion of the Advocate General and Mr. Jardine a case upon the question which had arisen as to the construction of section 17 of the Municipal Act.

We herewith forward a copy of the case and of the joint opinion of Counsel thereon.—We have, &c., CRAWFORD, BURDER & Co.

Ex-parte.—The Municipal Corporation for the City of Bombay.
Re Vacancy in the Corporation by reason of absence of a
Councillor from meeting.

CASE FOR THE JOINT OPINION OF COUNSEL.

Section 16 of the City of Bombay Municipal Act, 1888, prescribes certain matters which disqualify a person for being a Councillor and section 17 enacts as follows :—

“Any Councillor who—

“(a) becomes disqualified for being a Councillor for any reason
“mentioned in the last preceding section ;

“or,

“(b) absents himself during three successive months from the
“meetings of the Corporation except from temporary
“illness or other cause to be approved by the Corpora-
“tion, shall cease to be a Councillor and his office shall
“thereupon be vacant.”

The question has recently been raised whether the approval of the Corporation to the cause of absence must be given within the three months spoken of, or whether it is sufficient if such approval be accorded afterwards.

It is contended, on the one hand, that the approval of the Corporation must be given within the three months, and that otherwise there is apparently no limit whatever to the period during which a Councillor may absent himself in anticipation of approval, that he might in fact leave his place vacant for two years or more, and then get the absence condoned. That the

section clearly provides that absence for three months without approval vacates the seat, and consequently that if the Corporation possess the power of subsequent condonation, they practically possess the power of re-election to their own body, the seat having *ex hypothesi* been vacant from the expiration of the three months upto the date when the resolution approving the cause of absence is passed, and further that during this period of vacancy there would apparently be a contravention of section 5 of the Act, which prescribes that the Corporation *shall* consist of 72 Councillors.

It is contended, on the other hand, that the words "to be approved" imply that approval need only be asked for, and need only be given, after the necessity for such approval, namely, absence for three months has arisen; and it was argued in the Corporation that, inasmuch as illness might prevent a Councillor from making any application within the prescribed three months, the section must be read as if the application might be made and approval accorded at any time.

The Corporation have resolved that the joint opinion of Council be obtained upon the question which has been raised.

Council are therefore requested to advise:—

OPINION.

1. Whether the Corporation "can legally and effectually grant approval to the absence of a member of their body from his duties when the application for absence is made more than 3 months after the date of the last attendance of the member applying.

And to advise generally.

1. We are of opinion that the approval of the Corporation referred to in section 18, clause B, need not be given during the three successive months of absence of a Councillor from the meetings of the Corporation, but that the *ex post facto* approval of the Corporation would prevent the disqualification of such Councillor.

Generally.—The wording of the sections bearing upon this matter are very inapt, but it seems to us that the reasonable construction to put upon sections 17, 18—22 (3), is that a Councillor absent for three successive months must take steps to show that he is not thereby disqualified under section 17 (that is, that he comes within the exceptions of section 17) before the election of a new Councillor has taken place. We think that the announcement of an election to fill the vacancy presumably caused by his absence would be an allegation that he had become disqualified for office within the terms of section 18, and that his inaction thereupon would be tantamount to a non-denial of such allegation, and that any action taken by him after such new election would be held to be too late.

F. L. LATHAM.
JAMES JARDINE.

29th February 1892.

ABSENCE OF MEMBERS OF THE STANDING COMMITTEE &c.

BOMBAY, 5th May 1893.

To H. W. BARROW, Esq.

Municipal Secretary.

SIR,—We have the honor to acknowledge the receipt of your No. 1147, dated this day.

We understand that since despatching that letter you have received the resignation of Mr. Dharamsi of his seat as a member of the Standing Committee, and this disposes of one of the main question raised, in so far as the particular case of Mr. Dharamsi is concerned; but in view of the possibility of a similar question arising in future, we will presently reply to the question put to us on the footing of such resignation *not* having been received.

We will first, however, deal with the only question which now, in fact, remains as regards the present vacancy, namely, the question whether the meeting convened for Monday next, on notice given *before* the resignation was actually received, can legally be held. We think the meeting may proceed and that the filling up of the vacancy at such meeting will be valid. The notice, it is true, states that the vacancy occurred "by the departure from India of Mr. Dharamsi," instead of "by the resignation of Mr. Dharamsi;" but that is not, we think, material, inasmuch as the business to be transacted, namely, the filling up the vacancy, is sufficiently stated within the meaning of section 36 (j) of the Act.

Mr. Dharamsi's resignation, it seems, is dated 22nd April 1893, and was left by him apparently with a clerk who through oversight omitted to send it on to you until to-day. The fact remains that (though it was not known to you at the time) Mr. Dharamsi did resign before the notice for the meeting was issued and a vacancy had accordingly occurred. It might be possible, no doubt, to contend that the letter of resignation constituted no resignation at all until it was delivered, but we do not think such an argument should prevail, and we are of opinion that the validity of the meeting and of the appointment which may be made thereat could not be successfully impugned.

We will now consider the question raised in your letter on the footing of the position of matters when that letter was written. Mr. Dharamsi was known to have left India by a certain steamer, but no intimation had been received as to where he was going and for how long. Under such circumstances, we do not think it could be legally assumed that his seat was vacant. He might have changed his mind and returned from Aden, or, so far as was officially known, might have been back in Bombay long before

the expiration of the three months mentioned in section 17 (b). In this respect it will be noticed his case differed materially from the cases of Sir Henry Morland and Dr. Cowasjee Hormusjee—the subject of our letters of the 15th April 1890 and 2nd June 1891,—in each of which cases there was an intention (officially or demi-officially communicated as we understand) to be absent from India for a prolonged period—in the former case six months and in the latter three months—such avowal being, we think, equivalent to an intimation that the member of the Standing Committee in question would be incapable of acting as such during the period mentioned.

We consider, therefore, that if Mr. Dharamsi had not, in fact, resigned, it would not have been correct to treat his seat on the Standing Committee as vacant until the expiration of the three months contemplated by section 17 (b).—We have, &c.,

CRAWFORD, BURDER & Co.

ELECTION OF COUNCILLOR.

BOMBAY, 4th April 1892.

To H. W. BARROW, Esq., Municipal Secretary.

SIR,—We have the honor to acknowledge the receipt of your No. 5, dated this day, and to state that the information before us is hardly sufficient to enable us to give a definite answer to the question submitted to us.

We would in the first place point out that the last day on which the Corporation can appoint to the vacancy in question will, in our opinion, be the 16th instant, *not* the 12th instant as suggested in the concluding portion of your letter. We arrive at this conclusion thus:—It is to the *new* Corporation, “so far as it is constituted,” that, under section 34 (2) of the Municipal Act, the Municipal Commissioner had to give information of the circumstances which have given rise to the necessity for the appointment of a duly qualified person to fill the vacancy (see our letter to the Commissioner, dated 23rd February 1892, written after consultation with counsel); but as the new Corporation did not come into existence as such until the first instant, they could not receive information of the circumstances before that day; the 15 days time contemplated by section 34 (2) could only

run, therefore, from that date (1st April), and, having regard to section 523 (1), will expire at the end of the 16th April. The Commissioner's intimation, however, to you as Municipal Secretary must, we think (notwithstanding that it was received on 28th ultimo), be taken as communicating such information to the new Corporation as on 1st April.

You state that on receipt of the Commissioner's intimation, the President gave notice that at the meeting called for the 6th instant he would move that the Corporation do proceed to fill the vacancy. You refer, no doubt, to the President of the *late* Corporation, as the new Corporation has not as yet got a President [Section 37 (1)]; if the notice so given by him was given before 1st April, it was premature, for, as we have seen the Corporation (*i.e.*, the *new* Corporation) could not receive the information before that date, it would, however, have been quite competent to the President of the *late* Corporation (assuming he is, as we believe he is, member of the new Corporation), to give such notice in that capacity *on* or *after* the 1st instant, and if the notice was so given by him and has been specified in the notice of business for the meeting of the 6th instant, under section 36 (*j*), or in a supplementary notice under Section 36 (*k*), then there is no objection to the appointment being proceeded with at that meeting; if, on the other hand, the notice of the (late) President was given *before* the 1st April, or if given on or after that date, has not been duly notified under Section 36 (*j*) or (*k*), then it will not be competent to the Corporation to make the appointment at their meeting of the 6th instant, but a fresh meeting (not necessarily a meeting of urgency, as the time does not expire till 16th instant) will have to be called for the purpose.

It may at first sight seem to be an anomaly that, while the Commissioner's intimation, though dated and received before, should be taken to have effect on the 1st April, yet the (late) President's notice should not have similar prospective effect, but a little reflection will, we think, show that the latter is on an entirely different footing from the former. The intimation from the Commissioner to you, a permanent officer of the Corporation, might well be given in anticipation of the new Corporation coming into existence, so as to have effect from the commencement of their tenure of office, but no notice based on such intimation could, we think, be valid unless given after such intimation was effective, nor we think could a member of the Corporation who was about to retire from office give valid notice of a motion which he would bring forward on a date subsequent to such retirement, and in another capacity, namely, as a member of the new Corporation.—

We have, &c., CRAWFORD, BURDER, & Co.

Re RIGHTS OF THE STANDING COMMITTEE TO CALL FOR REPORTS.

30, ESPLANADE ROAD,
BOMBAY, 22nd October 1892.

To H. A. ACWORTH, Esq.,

Municipal Commissioner.

SIR,—Referring to your No. 6717, dated the 27th June last, and subsequent correspondence on the subject of the case for Counsel's opinion on the questions as to the legal position of the Standing Committee as regards calling for reports, we have the honor to forward herewith a copy of the case submitted by us to the Advocate-General, Mr. Lang, and of his opinion thereon, dated the 19th instant.—We have, &c.,

CRAWFORD, BURDER & Co.

BOMBAY MUNICIPALITY *ex-parte* THE
STANDING COMMITTEE.

Re QUESTIONS AS TO RIGHT OF THE
STANDING COMMITTEE TO CALL FOR
REPORTS.

By a resolution of the Standing Committee, dated 22nd June 1892, it was resolved: "That the Municipal Commissioner be requested to obtain and submit to the Committee as early as practicable the opinion of the Advocate-General on the following question, *viz.*: Whether the Standing Committee has the right to call for reports from the Commissioner and through him from other Municipal officers (1) on matters falling within the powers and functions of the Committee; (2) on matters which come before the Committee for consideration, disposal or report either on reference to the Corporation or at the instance of the Commissioner; and (3) generally as to the right of the Standing Committee to call for reports, information, returns, &c., from the Commissioner and other Municipal officers."

Sections 42 to 48 inclusive of the City of Bombay Municipal Act, 1888, deal with the constitution and appointment of the Standing Committee, the appointment of their Chairman, the retirement of the members by rotation, the replacing of members so retiring, the filling up of casual vacancies in the Committee and the duration of their office.

Section 49 contains provisions regulating the proceedings of the Standing Committee and empowers them (*inter alia*) to make such regulations as they think fit "with respect to the scrutiny of the "Municipal accounts," and provides [sub-clause (n)] that the Commissioner shall have the same right of being present at

a meeting of the Standing Committee and of taking part in the discussions thereat as a member of the said Committee, but that he shall not be at liberty to vote upon or make any proposition at such meeting.

Section 64 provides [sub-section (1)] that "the respective functions of the several Municipal authorities shall be such as are specifically prescribed in or under this Act," and by sub-section (2) declares that "except as in this Act otherwise expressly provided, the Municipal Government of the City vests in the Corporation."

Sub-section (3) provides as follows :—"Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the Corporation or the Standing Committee, and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act vests in the Commissioner," who shall also perform and exercise certain special duties, powers and functions therein specified, and amongst others he is required [clause (c)] on the occurrence or threatened occurrence of any sudden accident or unforeseen event involving or likely to involve extensive damage to any property of the Corporation or danger to human life to take immediate action, "reporting forthwith to the Standing Committee and to the Corporation when he has done so."

By section 65 the Corporation are expressly authorized to call for extracts from proceedings of the Standing Committee and for any return, statement, account or report connected with any matter with which the Standing Committee is empowered to deal.

Section 66 also expressly authorizes the Corporation to call on the Commissioner (a) to produce records and documents, (b) to furnish returns, statements, &c., and (c) "to furnish a report by himself, or to obtain from any head of a department subordinate to him and furnish with his own remarks thereon, a report upon any subject concerning or connected with the administration of this Act, or the Municipal Government of the City."

The functions, duties and powers of the Standing Committee specifically prescribed by the Act, are (stated briefly) as follows :—

Section 21 (4).—Approval of fees prescribed by Commissioner for copies of Municipal Election Roll.

Section 28.—Approval of remuneration to polling officers, &c.

Section 59 (1) (a).—Assenting to grant of leave of absence to Commissioner.

Section 64 (3) (c).—Receiving reports of special measures and expenditure taken and incurred by the Commissioner in emergency.

Section 69 (c).—Approval of contracts involving more than Rs. 5,000.

(d).—Contracts for less to be reported to them.

- Section 70 (2).—Common seal to be affixed in presence of two members.
- Section 72 (3).—Authorizing contracts without inviting tenders.
- Section 77.—Appointment of Municipal Secretary.
- Section 78.—Do. of Secretary's subordinate staff.
- Section 79.—Sanctioning schedule of designations of officers and their salaries, &c.
- Section 81.—Framing regulations for grant of leave to officers, &c., &c.
- Section 83 (2) (a) & (b).—Approval of dismissal and suspension of certain officers.
- Section 84 (2).—Granting leave to officers not appointed by Commissioner.
- Section 90.—Approval of rates or prices of contracts for acquisition of immoveable property.
- Section 91.—Approval of applications to Government to acquire under Land Acquisition Act.
- Section 92 (a).—Leases of property of Corporation for not more than a year to be reported to them.
- (b).—Sanctioning sales of property for less than Rs. 5,000 and leases for more than one but not more than 3 years.
- Section 113.—All cheques to be signed by one member at least.
- Section 114.—Approval of deposit of Municipal money at Banks or Agencies outside Bombay.
- Section 116.—Members signing cheques under Section 113 to satisfy themselves that payment duly authorised.
- Section 117.—Special expenditure by Commissioner for certain purposes to be communicated to them forthwith.
- Section 122.—Sanctioning investment and disposal of surplus monies.
- Section 123.—Prescribing manner and form of keeping accounts.
- Section 124 (3).—Examination and review of Commissioner's Annual Report and Statements of Accounts.
- Section 125.—Commissioner's estimates of expenditure, income, &c., to be laid before them.
- Section 126.—Consideration of such estimates and power to require further detailed information from Commissioner.
- Framing Budget Estimate.*
- Section 131.—Power to recommend increased or additional grants during an official year.
- Section 132.—Sanction for expenditure of unexpended portions of grants.
- Section 133.—Power during official year to reduce or transfer budget grants.

- Section 134.—To represent to Corporation when circumstances show the necessity for re-adjusting or providing additional funds during an official year.
- Section 135 (1).—To conduct weekly scrutiny of Municipal accounts; (2) for this purpose to have access to all accounts, &c., and Commissioner to furnish them any explanation they may call for.
- Section 137.—Auditors to report and furnish information to them.
- Section 158 (2).—Power to prescribe general conditions in regard to allowance of 1/5th drawback of general tax in certain cases.
- Section 161 (2).—Power to prescribe fee for inspection and extracts from assessment book.
- Section 169.—Power (a) to regulate cases in which water to be paid for by measurement instead of the water tax, (b) to approve composition of water tax, (2) to prescribe conditions in regard to use of water.
- Section 170.—Power to prescribe rate at which water to be charged for to Government and Port Trust.
- Section 172 (1).—Approval of special rates for levy of halalkhor tax in certain cases.
- Section 185.—Approval of composition with livery stable keepers, &c., in respect of tax on vehicles and animals.
- Section 186.—Approval of fees to be prescribed by Commissioner for inspection and extracts from vehicles and animal tax book.
- Section 195.—Approval of rules in respect of refund of town duties.
- Section 213.—Approval of mode of management and control of collection, &c., of tolls and town duties.
- Section 216.—Approval to writing off of irrecoverable taxes.
- Section 223.—Approval to removal of buildings, &c., erected over Municipal drains.
- Section 226 (2).—Approval to requisition for taking order for drains in alongside of or under streets.
- Section 227 (b).—Approval of mode of connecting private street drains with Municipal drains.
- Section 229.—Approval of demolition of drain connections made in contravention of the Act.
- Section 230 (1).—Approval of authority to carry private drain through land of another.
- (5).—Approval of requisition to divert such drain when land required for building.
- Section 233.—Approval to the closing or limiting the use of existing private drains.
- Section 238.—Approval of authority to person other than owner to use a drain.

- Section 240.—Prescribing conditions in respect to drains passing beneath buildings.
- Section 254.—Approval to opening or removal, &c., of parts of buildings for purposing of inspection of drains, &c.
- Section 268.—Approval to removal of buildings, &c., over a Municipal water main.
- Section 276.—Prescribing rent to be charged for use of Municipal water meters.
- Section 279.—Approval to cutting off private water supply in certain cases.
- Section 300.—Approval of requisitions to set forward buildings.
- Section 303.—Approval of levels, direction, &c., fixed by Commissioner for new private streets.
- Section 305.—Sanctioning requisitions to owners of premises adjoining private streets to level, metal, &c., such streets.
- Section 335.—Approval of removal, &c., of buildings over Municipal gas pipes.
- Section 344 (1).—Approval of fees prescribed by Commissioner for forms of building notices.
- Section 348 (1) (b).—Assent to disapproval of new buildings inconsistent with provision of proper streets, position and direction of which not yet determined.
- Section 351 (2).—Approval of buildings erected contrary to Act.
- Section 352 (1).—Approval of requisition to open or pull down building work to ascertain if Act contravened.
- Section 355 (2).—Approval of refusal to grant license as licensed surveyor.
- Section 356.—Approval of regulations for guidance of licensed Surveyors.
- Section 357.—Prescribing fees to be paid to licensed surveyors.
- Section 364.—Receiving weekly return of fires from Municipal Commissioner.
- Section 377 (1).—Approval of requisition to take order with neglected private premises.
- Section 381.—Approval of requisition to cleanse, fill up, &c., quarry-holes, &c.
- Section 382.—Approval of requisition to discontinue, &c., dangerous quarrying.
- Section 397 (2).—Approval of fees to be determined by Commissioner for use of washing places.
- Section 403 (1) (d).—Approval to suspension of licenses for private markets.
- Section 406.—Approval of market regulations.
- Section 407 (a).—Approval of stallages, &c., in Municipal markets.
- (b).—Approval of farming, do. do.
- (c).—Approval of private sale of right of using stall, &c.

Section 427 (1).—Approval of fees for disinfecting articles.

Section 493.—Approval of agreements for accepting expenses of works done for private persons by instalments.

Section 501.—Approval of payment of compensation not otherwise provided for on account of damage by reason of exercise of powers given by Act.

Section 517 (1) (f).—Approval of withdrawal or compromise of claims exceeding Rs. 500 for penalties under contracts.

(h).—Approval of admission or compromise of claims, suits, &c., against Corporation or Municipal officers.

(j).—Approval of institution of or withdrawal from or compromise of suits, &c., by Corporation or Municipal officers.

(k).—Obtain legal advice or assistance.

The functions of the Standing Committee is thus prescribed may apparently be summarized somewhat as follows:—

The scrutiny of Municipal accounts; the appointment of certain officers; assent to grant of leave to the Commissioner; the exercise of a control and supervision over Municipal contracts; over expenses of Municipal establishments; over acquisition of immoveable property; over disposal of Municipal property; over allowance of drawback of general tax; over certain fees; over remuneration to polling officers; over charges for water and Halalkhor and vehicle and animal taxes in special cases; over the cutting off of water-supply in certain cases; over collection of certain toll; over refund of town duties; over the writing off of irrecoverable taxes; over certain matters in connection with Municipal and private drains and removal of buildings over certain drains, water mains and gas-pipes and of buildings erected in contravention of the Act and of portions of buildings for inspection of drains; over licensed surveyors; over mode of dealing with neglected and dangerous premises in certain cases; over private and Municipal markets in certain matters; over payment of compensation not otherwise provided for; over mode of recovery of certain expenses; and over certain legal proceedings.

Primarily, it would seem the Standing Committee is a Finance Committee for the purpose of scrutinising and controlling the Municipal accounts, or of checking the Municipal revenue and expenditure and reporting thereon to the Corporation.

Secondly, the Standing Committee's duties are administrative within certain limits (see sections 77, 78, 81, 83 (2) (b), 84, 158, 169, 243, 357), and it has, it will be noticed, in some cases the power of initiating action, *e.g.*, the Standing Committee may suspend an officer (sec. 83) (b), it may recommend that a budget grant may be increased, or an additional budget grant made (sec.

131), it may reduce a budget grant (sec. 132), it may represent to the Corporation that the income of the year will not suffice to meet expenditure (sec. 134), and so on.

Thirdly, it is a Committee of control over the Commissioner by giving or withholding approval or sanction in respect of certain matters as to which in carrying on the duties and powers imposed and conferred on him by the Act, it would be impossible or inconvenient for him to refer to the Corporation as a body, to decide on such matters. In regard to some of their functions, the Act, it will have been noticed, requires the Commissioner to report "or communicate" or give "detailed information" or "explanation" or furnish "weekly returns" to the Standing Committee, see sections 64 (3)(c), 69 (d), 92 (a), 117, 126 (1), 136 (2) and 364, and in so far as he is thus expressly directed to report, there can, of course, be no question as to the legal right of the Standing Committee to call on him to do so. As a matter of course, the Commissioner always in such cases does report, and indeed in other matters coming before the Standing Committee in regard to which there is no such direction in the Act, he has always been ready to afford to the Standing Committee, whether in the shape of reports or otherwise, any information which they desire. There is no instance on record of the Commissioner having refused to furnish any report called for by the Standing Committee, and Counsel will understand that the present questions are submitted for his opinion not in consequence of any particular instance or case, but because it has been deemed desirable to ascertain the legal position of matters. But outside its distinct statutory functions, the Standing Committee also sometimes has to deal with a number of questions which arise either on references made by the Commissioner or references made by the Corporation. The second question is, whether in dealing with these, they have any legal right to call for reports.

Lastly, individual members of the Standing Committee often give notices of motion which either directly call for a report from the Commissioner or indirectly involve one. The third question is, whether there is any legal right in the Standing Committee to call for, or obligation on the Commissioner to furnish, such reports.

Section 66 (1) (c) of the Act, as has already been noticed, gives in distinct and express terms to the Corporation the power to call on the Commissioner to furnish a report "by himself or any head" of a department subordinate to him upon any subject concerning or connected with the administration of this Act or the "Municipal government of the city," and this provision, coupled with the absence of any statutory provision expressly assigning a similar general power to the Standing Committee, has hitherto been regarded by the Commissioner as indicating that such power is not to be inferred from the general provisions of the Act determining the powers and functions of the Corporation or Standing

Committee respectively ; if this is not so, it has been suggested there would have been no need for the express enactment embodied in section 66 (1) (c) or for the express provisions already noticed, requiring the Commissioner to report, &c., to the Standing Committee in respect of certain specified matters.

Counsel is requested to advise whether the Standing Committee has the legal right to call for reports from the Commissioner and through him from other Municipal officers :—

1. On matters falling within the powers and functions of the Committee other than those in respect of which reports are by the Act expressly provided for,

2. On matters which come before the Committee for consideration, disposal or report, either on reference by the Corporation or at the instance of the Commissioner, and

3. Generally as to the right of the Standing Committee to call for reports, information, returns, &c., from the Commissioner and other Municipal officers.

OPINION.

I think the Standing Committee has not the legal right to require the Commissioner to furnish a report either by himself or by one of his subordinates in any case in which it is not expressly provided by the Act that a report is to be furnished to it. The power of requiring the Commissioner to furnish a report is given by section 66 (c) to the Corporation, and if a report is required by the Standing Committee, which the Commissioner declines to furnish, the only course for the Standing Committee to adopt is to request the Corporation to call for it.

BASIL LANG.

19th October 1892.

RE APPORTION OF SAVINGS ON LOANS SANCTIONED FOR SPECIFIC OBJECTS TO CHARGES FOR LOAN WORKS ARISING ON OTHER HEADS.

CASE FOR COUNSEL'S OPINION.

Prior to the passing of the present Municipal Act (Bombay Act III of 1888), loans were granted to the Municipality under special Acts, *viz.*, Bombay Act III of 1870 (an Act to secure the payment to Government of certain sums of money by the Corporation of the Justices of the Peace for the City of Bombay), Bombay

Act II of 1872 (an act to secure the payment to Government of certain additional sums of money by the Corporation of the Justices, &c.), Bombay Act II of 1880 (the Bombay Municipality's Consolidated Loan Act, 1880), and the Local Authorities Loan Act XI of 1879, amended by Act XV of 1885. Expenditure on account of such loans did not appear in the Annual Budget, but the amounts thereof were expended on works, &c., sanctioned by the Corporation and Government. In 1880 Mr. (now Sir) Charles Farran advised the Corporation that the consolidated loan under Act II of 1880 could be temporarily appropriated for ordinary expenses of the Municipality, and subsequently restored from ordinary municipal revenue, but they could not be permanently applied for other than the purposes for which the funds were borrowed without the approval of the Government of India, though, in the absence of an "express contract binding the Municipality to use the money borrowed in a particular way, a Court of Law might not perhaps interfere to restrain such an application." Under the then Town Council's resolution No. 1360 of 12th October 1887, the Municipal Commissioner was requested for the first time to append in the Budget for 1888-89, then under preparation, "roughly approximate estimates of income and expenditure on account of loan works under construction for the same period." Since the passing of Act III of 1888, under which the Corporation was granted special borrowing powers, the income and expenditure on loan works have been regularly budgetted for separately from the ordinary income and expenditure. The unexpended balances of the ordinary expenditure grants, as well as those of loan works expenditure, have been renewed by the Standing Committee every year under section 132, and since 1894-95, when the Commissioner was advised that such expended grants, if required to be renewed beyond the following year, should be sanctioned by the Corporation, this has always been done. The savings on the different loan works have, with the sanction of the Corporation, been from time to time appropriated under sections 131 and 133, either for meeting excesses on works sanctioned out of one and the same or other loans, or for meeting the cost of new permanent works costing over Rs. 20,000 each, for which fresh loans would have otherwise been required to be raised.

In accordance with the above practice it was the Municipal Commissioner's intention to utilize the savings that had since accrued on different loan works, or other new works of a permanent character; consequently in the introductory remarks to the Budget Estimate for the ensuing year submitted by the Commissioner to the Standing Committee he stated as under: "It will be observed that in the Loan Works Statement I have only included works authorized to be carried out of already sanctioned loans. I do not propose to carry out any more loan works during the ensuing year by raising a fresh loan. I shall sub-

“mit separate proposals to carry out specially urgent works at a cost of rupees three lakhs out of savings already accrued on the different loan works.” In continuation of the above budget remarks, the Commissioner submitted proposals for carrying out certain works as per his No. 19,077, dated 19th December 1895, a printed copy whereof is herewith forwarded for Counsel’s information. From the attached printed copy of the proceedings of the Corporation, dated the 6th February 1896, it will be observed that they have sanctioned all the drainage items detailed in list B submitted with the Commissioner’s No. 19,077 quoted above, and that the consideration of the water works item of Rs. 57,000 has been deferred until the adjourned meeting pending the receipt of certain information required by them on the subject. While coming to the item of Rs. 50,000 for the purchase of new pattern hydrants, they postponed the consideration of that and the remaining three items as per their resolutions Nos. 12,923 and 12,924 forwarded herewith until the joint opinion of Counsel was obtained as to the right of the Corporation to appropriate saving on loans sanctioned for specific objects to charges for loan works arising on other heads. From the accompanying copy of the case laid before Mr. Farran in 1880, it will be observed that he was there advising mainly in reference to the diversion of monies borrowed and secured under the Bombay Municipality’s Consolidated Loan Act, 1880, though the question was also put to him with reference to loans raised from the public with the sanction of Government (see query 3), and his reply to that query was that such loans could be legally diverted to purposes other than those for which they were raised when no condition to the contrary was imposed by the lender, but that it would be a breach of good faith towards the latter. As regards loans raised from the Government of India, Mr. Farran seems to have thought that the difficulty could be got over by getting a Government Resolution approving of the diversion, but, where the public are the lenders, it is not very clear that he considered, the approval of the Government of India would sufficiently cure the defect though the loans in that case also would have to have been with the Government of India’s sanction. It would not, however, for obvious reasons be practicable in such a case to obtain the express approval of each lender. The points on which the Corporation now wish to be advised have reference only to loans raised (with the sanction of the Government of India) from the public. It is submitted that, so far as the question of good faith is concerned, there is a wide distinction between a diversion which involves an abandonment of the original object and the substitution for it of another and the mere utilization for another purpose of any saving or excess remaining over *after* the original object has been carried out and satisfied. Assuming, however, that Counsel concur in Sir Charles Farran’s views as expressed on that opinion, it is presumed they would be of opinion here, as he apparently was there, that, whether the money be

borrowed from the Government of India or from the public with the sanction of the Government of India, it would not be proper to permanently divert and apply money borrowed for a specific object for other than the purposes for which such money was borrowed without the approval of the Government of India. There is, however, a distinction between the circumstances obtaining now and those under which Mr. Farran was asked to advise, namely, that here the borrowing is expressly and avowedly under and for the purposes of the Act, and presumably, therefore, the monies borrowed must, as regards their expenditure, be subject to the provisions of the Act and, amongst others, to the provisions of Section 133 as to reduction and transfer of budget grants. The lenders must, therefore, it is submitted, be taken to have lent with full knowledge that the money might thus be transferred and could hardly therefore complain of a breach of faith if unexpended savings were appropriated to other purposes.

Counsel are now requested to advise the Corporation.

QUERIES.

1. Whether, where money has been borrowed by the Corporation from the public under the borrowing powers contained in the present Municipal Act, and the amount so borrowed is found to be more than is actually required for the specific purpose for which the borrowing was sanctioned, the appropriation by the Corporation of the saving or excess for meeting charges for loan works arising on other heads would involve a breach of faith towards the lenders if made (a) with or (b) without the sanction of the Government of India.

2. Whether assuming Counsel think such appropriation can be made, but only *with* such sanction, the Corporation can now properly resolve to so appropriate such savings temporarily and "subject to refund and adjustment hereafter in case the Government of India on application to be made to them for that purpose shall not approve of such appropriation."

ANSWERS.

1. When the money has been borrowed *bona fide* with the intention of expending it on the object for which the loan is raised and more has been borrowed than is required, we are of opinion that there is no breach of faith in spending the savings on some capital account. The money is the Municipality's, and they are entitled to spend it. There might be possible cases where a breach of faith might be committed in cases where the borrowing was not *bona fide* for the purpose stated, but with the intention of using the money for some other purpose.

2. We don't think the sanction of the Government of India is necessary. We think Government have nothing to do with the expenditure of the money after it has been borrowed, and no legal right to interfere. No doubt if the Municipality got the Government sanction for a loan for object A and spend it on B, the Government might refuse their sanction on the next occasion the Municipality wanted a loan, but they would, in our opinion, have no right to interfere with the expenditure of a loan once obtained.

3. In case Counsel should be of opinion that such appropriation (even with the approval of the Government of India) would be a breach of faith towards the public from whom the money was borrowed how should such saving or excess be applied or disposed of? Should it be invested or set apart as a sinking fund or additional sinking fund to secure repayment of the loan in respect of which the excess occurred?

4. Should the approval of the Government of India be obtained in respect of the appropriations already made as stated in these instructions of savings on loan works?

3. Not necessary to answer this.

4. We are of opinion that it should not. As long as the Municipality act *bona fide* in the exercise of their borrowing powers, we think they are entitled to spend the surplus of a loan as they choose, but we should advise, as a matter of precaution, that such expenditure be made on permanent or capital account and not to meet charges properly debitable to revenue.

And to advise generally.

23rd April 1896.

BASIL LANG.

J. D. INVERARITY.

TRANSFERS OF BUDGET GRANTS:—RE CHARGES INCURRED IN ONE YEAR DEBITABLE TO THE GRANT FOR THE FOLLOWING YEAR.

CASE FOR OPINION OF COUNSEL.

In the annual budget estimate of the Municipality for the official year from 1st April 1894 to 31st March 1895 is a "budget grant" of Rs. 3,000 for "Repairs to water-posts, Persian wheels, &c."

By the 1st November 1894 the greater part of this sum, namely, Rs. 2,810-12-3, had been expended; in December there were further bills for Rs. 341-1-6 on the same account, and on the 1st February 1895 it was estimated that a further sum of Rs. 1,000 would be required up to 31st March 1895. The total of these figures (Rs. 4,151-13-9) thus shows an anticipated excess of Rs. 1,151-13-8, which it was proposed should be met from

savings on the "Road-watering" grant for the year. The Standing Committee were therefore asked to sanction, and on the 13th March [purporting to act under section 133 (2) of the Municipal Act] did sanction, subject to the approval of the Corporation, the transfer of Rs. 1,152 from savings in the grant for "Road-watering," and their resolution to that effect (copy herewith) explains that the excess was due to (1) Rs. 751-2-1 of the expenditure for 1893-94 being debited to the grant for 1894-95 and (2) increase of repairs to water-posts, &c.

The Standing Committee's Resolution came before the Corporation on the 8th April 1895, and the Corporation (see copy of Resolution) referred it back to the Standing Committee for report as to whether their recommendation was legal and valid. The Commissioner then called for a report on the subject from the Acting Chief Accountant, who, on the 6th May 1895, reported as follows:—"It has been the practice in the Municipality to debit past year's charges to current year's grants with the sanction of the Commissioner when there has been no balance in the past year's grants to meet the same. It seems, however, to me that this practice is contrary to the provisions of section 115

Section 115.—"Except as hereinafter provided, no payment of any sum shall be made by the Commissioner out of the Municipal Fund unless the expenditure of the same is covered by a current budget grant."

of the Municipal Act quoted in the margin.

No section corresponding in its provisions to section 115 above quoted existed in the old Municipal Act.

2. This is, however, a legal question, and I would therefore suggest that the Municipal Solicitor's opinion be obtained on the point."

The matter was then referred to us, and on the 18th May we advised (copy herewith) to the effect that the proposed transfer was a legitimate and a proper one, and that the grant as thus supplemented would be properly applicable as well to the payment of charges incurred in the past as of those incurred in the ensuing or current year.

This letter was forwarded to the Corporation with reference to their resolution of the 8th April, and they on the 8th July resolved (copy herewith) that the Commissioner be requested to obtain the opinion of Counsel on the points therein referred to. We will now refer Counsel to the provisions of the Municipal Act which appear to bear upon the question.

By section 125 the Commissioner is required on or before the 10th November in each year to lay before the Standing Committee—

"(a) An estimate of the expenditure which must or should in his opinion be incurred by the Corporation in the next ensuing official year.

"(b) An estimate of all balances, if any, which will be available for re-appropriation or expenditure at the commencement of the next ensuing official year.

“(c) A statement of proposals as to the taxation which it will in his opinion be necessary or expedient to impose under the provisions of this Act in the said year.”

Under section 126 the Standing Committee are to consider the estimates and proposals of the Commissioner and, having regard to all the requirements of the Act [amongst others the obligation to provide for the lighting, watering, and cleaning of public streets, section 61 (n)], are to frame therefrom, subject to such modification and additions as they think fit, a budget estimate of the income and expenditure of the Corporation for the next official year. This budget estimate is to propose rates at which Municipal taxes are to be levied and the articles on which town duties are to be charged, to provide for loans and to allow for a cash balance of at least a lakh of rupees at the end of the year. The budget estimate as finally approved by the Standing Committee has then to be printed and a copy sent to each Councillor.

The budget estimate (section 127) is to be laid before the Corporation at a Meeting in January not later than the 10th.

Section 128 deals with the fixing of rates of taxes by the Corporation and section 129 with the final adoption of the budget estimate.

Section 130 provides that “any sum entered on the expenditure side of a budget estimate which has been adopted by the Corporation shall be termed a budget grant.”

Sections 131 and 132 do not seem to be material to the present question; the former authorizes the Corporation during an official year to increase a budget grant or make an additional budget grant for a special or unforeseen requirement, and the latter, in the case of unexpended balances of budget grants, authorizes the Standing Committee to sanction their expenditure in the following year for the completion of the object for which the grants were made.

Section 133 provides that—

“(1) The Standing Committee may, if they think necessary
“at any time during the official year,”—

* * * *

“(b) transfer and add the amount or a portion of the
“amount of one budget grant to the amount of any
“other budget grant in the budget estimates.”

“Provided that—

“(c) due regard be had when making any such * * *
“transfer to all the requirements of this Act.

“(d) the aggregate sum of the budget grants contained in
“the budget estimate adopted by the Corporation
“shall not be increased, except by the Corporation
“under section 131;

“(e) every such * * * transfer shall be brought
“to the notice of the Corporation at their next
“meeting.

- "(2) If any such * * * transfer is of an amount exceeding Rs. 500, the Corporation may pass, with regard thereto, such order as they think fit, and it shall be incumbent on the Standing Committee and the Commissioner to give effect to the said order."

The doubt in regard to the transfer in question expressed by the Chief Accountant in his report of the 6th May 1895 seems to have arisen from the fact that expenditure for 1893-94 has been debited to and paid out of the budget grant for 1894-95, and might not therefore perhaps be properly regarded as expenditure covered by a "current budget grant" within the meaning of section 115. It seemed to us, however, that a liability incurred in 1893-94 and which would have to be met in 1894-95 was an expenditure which must or should be incurred in the latter year, and consequently that the estimate of expenditure prepared by the Commissioner under section 125 (a) for the year 1894-95 should include under the head of "Repairs to water-works, Persian wheels, &c.," not only expenditure for which liability was expected to be incurred on that account during the year 1894-95, but also, so far as was then (early in November 1893) practicable, expenditure for which it was probable the liability would have been incurred, though the expenditure itself would not actually have been disbursed, by the end of the year 1893-94, and that, when such estimate of the Commissioner was embodied by the Standing Committee in their budget estimate framed under section 126 and the amount of such budget estimate under this head was adopted by the Corporation, the sum so adopted became a "budget grant" for the year 1894-95 and as such properly applicable to liabilities under that head, whether incurred in 1894-95 or the previous year; in other words, that the expression "*current budget grant*" (section 115) means the budget grant current at the time of the actual expenditure without reference to the time when the liability for such expenditure was incurred.

Counsel is requested to advise the Corporation.

OPINION.

QUESTIONS.

(1) Whether charges incurred (but not paid) during a particular year in excess of a budget grant for that year can properly be debited to (*i.e.*, paid out of) the budget grant under the same head for the next official year.

ANSWERS.

(1) I am of opinion that it cannot be so debited. The intention of the Act is that the Corporation decides how much expenditure shall be incurred on a particular object in the year, and I think that expenditure is incurred when you become liable to pay, although the date of payment is postponed. I therefore think the Commissioner has no power to have more work done than is provided for by the budget grant for a year in that particular year. I don't gather from these instructions whether in fact there was any

agreement to postpone payment for the extra work done in 1893-94 until 1894-95, or whether the bills merely remained unpaid during the former year. In the former case it might perhaps be argued that the expenditure was expenditure which should be incurred in 1894-95, as I notice that apparently payment of interest on loans which fall due in a particular year is treated as expenditure incurred in that year, although the liability for it is determined by a previous agreement. The meaning of "incur" given in the dictionaries is to "render liable to"—literally "to run into."

(2) Whether in the particular case referred to in the above instructions the liability, amounting to Rs. 751-2-1 (see Standing Committee Resolution of 18th March 1895), incurred but not paid in 1893-94 was properly paid in 1894-95 out of the budget grant for this latter year and was when so paid expenditure covered by a "current budget grant."

(3) Whether, on its being found that, in consequence of such payment and of the increased expenditure on repairs found necessary in 1894-95, the budget grant for the year would be insufficient, the Standing Committee were legally justified, under section 133 (1) (a), in sanctioning the transfer (subject to the approval of the Corporation) of Rs. 1,152 from the budget grant for "Road watering" to the budget grant for "Repairs to water-posts, Persian wheels, &c."

And to advise generally.

(2) I am of opinion it was not, as I consider the expenditure covered by a current budget grant in an item like this means expenditure in respect of liability incurred in the year covered by the budget for work done in that year.

(3) I am of opinion they could not provide for the payment of the excess expenditure incurred in 1893-94 in this way.

I think my view of these sections is supported by section 131, which shows that, if the budget grant for a particular year is found too little, the proper course is to ask the Corporation in that year to increase the budget grant. It seems to me quite contrary to the spirit of the Act for the Commissioner to execute extra works and pay for them out of the budget grant for next year, as I think those who vote for the grant would naturally think they are voting for the expenditure he incurred (in the sense I put on that word) in that year. It may be of course that the Commissioner

mentions in his estimate that a portion is required to meet expenditure of the previous year, and, if he does so, I think the Corporation would have power to sanction it, but, apart from that, I think the budget grant only covers work contracted to be done in the year covered by it.

J. D. INVERARITY.

27th July 1895.

18th May 1895.

To P. C. H. SNOW, Esq., I.C.S.,

Acting Municipal Commissioner.

SIR,—The question appears to be whether charges incurred during a particular official year in excess of a budget grant for that year can properly be debited to (*i.e.*, paid out of) the budget grant under the same head for the next official year. The Commissioner's estimate of expenditure on which the budget is based is "an estimate of the expenditure which must or should, in his opinion, be incurred by the Corporation in the next ensuing official year" [section 125 (*a*), Municipal Act]. Now it seems to us clear that a charge incurred, but not paid, or, in other words the expenditure for it, "must or should be incurred" in the next ensuing year and that such expenditure consequently may properly be, and indeed should be, budgetted for in the budget estimate for such ensuing year. The budget grant for the ensuing year should, that is to say, provide for the expenditure, not only of sums the liability for which is to be incurred in the ensuing year, but also for those the liability (but not the expenditure) which has been incurred in the current or previous year. In the case of the particular budget grant in question, as the amount of it was found to be insufficient to cover all this expenditure, it was legitimately and properly supplemented by a transfer under section 133, and such grant as so supplemented appears to us to be properly applicable, as well to the payment of charges incurred in the past, as of those incurred in the ensuing or current year.—We have, &c.,

CRAWFORD, BURDER, AND BAYLEY.

TIME BARRED CLAIMS.

30, ESPLANADE ROAD,

Bombay, 11th July 1894.

To THE MUNICIPAL COMMISSIONER,

Re Claim for compensation by the SCOTTISH ORPHANAGE SOCIETY.

SIR,—We have the honour to forward herewith copy, case and opinion of Counsel (Mr. Inverarity) upon this and the limitation

question, and also as to the legal power of the Corporation to pay claims barred by limitation.

It will be noticed that the practical effect of counsel's opinion is that section 527 does not apply to cases of compensation, and that the ordinary limitation of 3 years applies. This is in distinct opposition to the opinion of the Advocate General, dated the 23rd day of April 1894 (a copy of which we sent to you with our letter of the 25th April 1894), and of the ruling of the Chief Justice Sir Michael Westropp and Mr. Justice Green in *Sorabji Nusserwanji Dundas vs. the Justices of the Peace for the City of Bombay*, and also of the 2nd Judge of the Small Cause Court in *Suit No. 7888 of 1894, Sewji Hema v. the Municipality*, a copy of the Judgment in which case was sent to the Executive Engineer with our letter of the 12th May 1894.

We may mention that in discussing the opinion unofficially with counsel, he stated that the claim of the Scottish Orphanage Society was not one for "compensation" so as to bring it within the decision of *Sorabji Nusserwanji Dundas vs. the Justices of the Peace, &c.*, but was one for damages for breach of contract to pay a certain agreed sum of money upon the performance of certain conditions by the Society which they had performed, and that, consequently, such breach of contract could not be said to be an "act done in pursuance or execution or intended execution" of the act or in respect of any alleged neglect or default in the "execution of the act" within the meaning of section 527 (1) of the Act.

With regard to counsel's opinion that the Corporation can legally pay debts due by them although barred, he unfortunately cites no authorities, merely stating that the Limitation Act is intended to be a defence against stale claims. That, no doubt, is the case, and the 2nd Schedule to the Limitation Act specifies the periods when various claims are to be considered stale. In like manner, section 527 (1) (b) of the Municipal Act, specifies the time when claims under that section are to be considered stale, and we imagine that there is a very substantial reason for providing a special limitation in Municipal cases, partly, no doubt, owing to the necessity for providing each year in the budget for all liabilities, and partly to the difficulty that would be entailed if a Corporation like the Bombay Municipality, dealing with the innumerable matters that arise yearly, were liable to have claims made beyond the period provided. It is true that there is no law that requires a debtor to plead the statute, but the difficulty we have in accepting the opinion is that the Corporation are not in the position of ordinary debtors dealing with their own money with no one to account to for it. They are trustees for the public of the Municipal funds for particular purposes. If counsel is right, where are the Corporation to draw the line at 2 years or 5 years or 10 years. It may

equally be an admitted debt at the end of 10 years, and, of course, limitation does not extinguish the debt, it only bars the remedy.

The legal members of the Standing Committee will appreciate our difficulty in accepting an opinion upon such an important matter without any substantial authority being brought forward by counsel to support their opinion. As to whether or not section 527 applies in cases like that of the Scottish Orphanage, we would suggest that, if there is any claim pending in which the amount in question is over Rs. 1,000, the same should be disputed so that the opinion of the High Court, on revision from the Small Cause Court, may be obtained and thus settle the question for ever.

We return the papers.—We have, &c.,

CRAWFORD BURDER & Co.

Re the SCOTTISH ORPHANAGE SOCIETY.

1. Whether upon the facts as above stated the claim of the Scottish Orphanage Society is or is not barred by limitation.

1. I am of opinion it is not barred. Sections 527 and 504, in my opinion, do not apply where there is an agreement as to sum to be paid. I am of opinion that where there is an agreement to pay and receive a sum as compensation the ordinary limitation of three years applies. Here the agreement was to pay when title was shown. That title was shown in April 1894. I am of opinion time runs from that date.

2. If not so barred, could the Society file a suit for the amount of the compensation under section 527 of the Act, and, if so, when would the "cause of action" within section 527 (1) (b) be deemed to have arisen?

2. I think they can sue independently of section 527 on the contract. The cause of action, in my opinion, arose in April 1894 when the condition was performed on which the promise to pay was made.

3. When a claim for compensation is barred by limitation have the Corporation any legal power under section 501 or under any other circumstances to pay such claim, and, if so, under what circumstances?

3. I am of opinion the Corporation can legally pay debts due by them although barred. The Limitation Act is intended to be defence against stale claims, but if the debt is an admitted one, there is no law which requires the debtor to plead the statute. I think section 501 would cover such a payment but apart from that section I think it is no breach of trust to pay a barred debt in a proper case out of Municipal funds.

4. Generally upon any point which may occur to counsel on the above facts.

July 6th 1894.

J. D. INVERARITY.

TANSA LOAN.

BOMBAY, 22nd December 1891.

To SORABJI NAVAROJI COOPER, Esq.,

Chief Accountant, Municipality.

SIR,—With reference to the papers which your clerk left with us a few days ago and to the interview which Mr. Crawford had with you on the 19th instant on the subject of the arrangements to be made in connection with the 6th instalment of the Tansa Loan, and the Municipal Building Fund Loan, we have now the honour to express in writing our views upon the several questions which have suggested themselves and which were discussed between us.

As to the time within which the loans must be raised, it appears that, in accordance with the rules prescribed by Government the time at which it was proposed to raise the money was duly specified in the applications for sanction, namely, in each case "between July and December 1891." The sanction of Government has been accorded on the footing of these applications and is therefore a sanction to the raising of the money during the period specified and no other, and, this being so, we think it is essential that the loans be raised and the debentures issued as of some date before the close of December* 1891, otherwise fresh applications, fresh publication and fresh sanction would be necessary. We do not, however, (after the explanation you have given us as to how matters stand) consider that there need be any difficulty in fulfilling this condition as to time.

As regards the sixth instalment Tansa Loan, the case we believe stands thus: some 21 lakhs out of the whole amount of this instalment (25 lakhs) have already been provided out of surplus funds and the actual balance to be provided for the work, so far as this loan is concerned, is therefore only about 4 lakhs, and this sum we understand it is proposed to provide from time to time as required from surplus cash balance or, if necessary, by sale of debentures.

We can see no objection whatever under these circumstances to the debentures for the whole amount (25 lakhs) being issued as of date 24th December 1891. The Tansa Works will then be credited as of that date with the full amount of the sixth instalment, while the new debentures bearing interest from 1st January 1892 will take the place of the moneys withdrawn for Tansa in anticipation, from surplus cash balance and will also represent an additional reserve of surplus funds to the extent of the undrawn and unexpended balance of the 25 lakhs, the whole being thus held in the form of debentures available for

* At a personal interview the Solicitors suggested 24th December.

disposal in the market gradually as occasion offers and as necessity requires, and by this means a more favourable rate will necessarily be procurable than if the whole of the debentures were placed in the public market together. The transaction as thus effected will practically amount to nothing more or less than this, that the sixth instalment of the Tansa Loan will be duly raised within the time limited while the amount previously borrowed from surplus funds will be made good, and, together with the balance necessary to make up the 25 lakhs, will, as such surplus funds, be invested in public securities bearing the interest which, in terms of the Government sanction, will be properly chargeable against the Tansa Loan. Such interest being thus in the result saved to the Corporation in addition to the loss which would otherwise accrue from placing a large loan in the public market all at once. This arrangement, while giving effect to the conditions of the Government sanction as regards the time of raising the loan, will also, we consider, be in complete accord not only with the spirit but with the letter of the Standing Committee's Resolution No. 3639, dated the 8th July 1891, for that Resolution merely sanctions the Commissioner's proposal "not to raise for the present any loan in the public market.

The only possible objection which it occurs to us might be suggested is, that the application and consequently the sanction was for the raising of the loan from the *public*, but when it is borne in mind that the surplus moneys are in reality the moneys of the public and that section 122 of the Municipal Act gives express power to invest such surplus moneys (*inter alia*) in "any Bombay Municipal Debentures," we think it would be held that the transaction does not in fact involve any contravention of the terms of the sanction.

The above remarks apply with equal force to the Municipal Buildings Loan, the debentures in respect of which may, we think, in like manner be issued as of date 24th December 1891, the loan being treated as raised on that date, and the proceeds being invested as surplus moneys.

We have altered in red ink and returned herewith *two forms* of the debentures in use in respect of the Sinking Fund, one of them adopted for the investment in the Tansa Loan and the other in the Municipal Building Loan. We think that, as thus altered, they will serve respectively as the forms to be adopted in respect of the investment of surplus moneys in the Tansa Loan (6th instalment) and Municipal Building Loan.

We return the papers left with us.

We have, &c.,

CRAWFORD, BURDER & Co.

OPINION.

By section 111 of the Municipal Act all the moneys of the Corporation from whatever source derived constitute the Municipal fund and by section 118 it is lawful for the Corporation to expend the same (subject to the conditions imposed by other sections of the Act) on any of the purposes mentioned in sections 61 62 and 63, which include the construction and maintenance of water works (section 61, clause *b*), and I am therefore of opinion there is nothing illegal in the Corporation spending the portion of the Municipal Fund on the Tansa Water Works, and I don't think this conclusion is affected by section 121 which only requires that no sum shall be credited or debited to the accounts opened under that section with a separate or special heading. The moneys standing to the credit of such special accounts still form a portion of the Municipal Fund. The surplus moneys at any one date to the credit of the Municipal Fund is apparently composed of the balances appearing to the credit of all the special and general account kept of the Municipal Fund, less such portion of the Municipal Fund as may happen to have been expended on other Municipal works and which, in the ordinary course, would be debited to the special account of the work (if such account had been opened), or if not, to the general account. Should such expenditure have been made, it is clear that the account would not show from what particular special accounts surplus balance the money had been taken to expend upon another work, for by section 121 no debit entry could be made in that special account, debiting it with a sum withdrawn for another purpose, but nevertheless the accounts of the Municipal Fund as a whole would be correct and, if at any time it became necessary to provide money for the special account whose surplus money had been used as part of the Municipal Fund if not forthcoming from the Municipal Fund, would, no doubt, be replaced by borrowing money on the account of the work for which the money had at the earlier date been expended. I therefore see no objection in law to the Corporation using any portion of the Municipal Fund for the purposes authorized by the Act quite independent of any headings of account which have been opened for the sake of convenience, bearing in mind that no credit or debit entry can be made in any special account contrary to section 121. Such special account will, therefore, always show what sum stands to its credit and what ought to be forthcoming when required for the purpose of that special account, and, if in fact it is not available by reason of the money having been used for another account, that other account would have to be debited with the loan necessary to make good what is required. There may be some difficulty in adjusting what interest is to be credited or debited in these matters, but that cannot affect legality or illegality of the use by the Corporation of the Municipal fund.

2. In the view I take of the matter the Corporation here have used a portion of the municipal fund on works authorized by the

Act, and they have used moneys which originally were intended for another purpose, but which were not immediately required. When the money is required for carrying out that other purpose, they can replace it either by borrowing it or from the funds in hand if sufficient.

3. I am of opinion that the Corporation have not, in respect of this particular expenditure, exercised their borrowing powers at all, and that the loan they intended to raise and asked the sanction of Government for has never been raised, nor were they bound to raise the loan if they found, as they did, that the moneys to the credit of the municipal fund rendered such loan unnecessary.

4. The attempt to make it appear there was in fact a loan from the Municipal Commissioner to the Corporation in my opinion is a nullity.

5. The municipal fund is held *by the Corporation* by the terms of section 111 in trust for the purposes of the Act. How the Municipal Commissioner can lend a portion of that fund to the Corporation passes my comprehension; he has no power to do so. The Corporation cannot borrow from itself a portion of the municipal fund which is already vested in and held by it. Such a transaction in my opinion is not in exercise of the borrowing powers given by chapter 6 of the Act at all. It is obvious that, by such a transaction, the liability of the Corporation is in no way increased. If they choose to pay interest on their own moneys, it only goes out of one pocket into another; the total of the municipal fund is not affected by such payment or receipt of interest.

6. The Corporation have no power to issue debentures except for money *borrowed under chapter 6* of the Act, section 108, clause 2. I consider the debenture in question of no effect.

7. The view that I take of this question is one which could not be put conveniently in separate answers to the questions propounded, which are framed from quite a different point of view, and I have therefore not answered the questions separately.

J. D. INVERARITY.

January 28th, 1893.

Subsequently on 21st April 1893 the joint opinion of Counsel was obtained as under:—

1. Whether the municipal debentures now representing sinking fund and insurance fund investments which have *not* been purchased in the market but purport to have been issued at par direct in favour of those funds respectively are legally valid and effectual. Has there been in fact any borrowing within the meaning of chapter VI of the Municipal Act of the moneys which those debentures purport to represent?

1. We are of opinion that there has been no borrowing of the sums which the debentures in question purport to represent and that in consequence the said debentures are invalid.

2. If not, can any steps be now taken to validate the debentures, and what having regard to section 109 (d) and (f) of the Municipal Act is the proper course to adopt in regard to the sinking fund, and what in regard to the fire insurance fund?

3. What is the legal effect of the purchase by the Corporation of their own debentures in the exercise of their powers of investing in their own securities? Does this extinguish *Pro tanto* the municipal debt and thus in effect cancel the debentures so purchased and render them incapable of being thereafter negotiated or sold, or are they capable of being again placed in the market by the Corporation as valuable securities for the amounts which they purport to represent?

4. If Counsel should consider that recourse to special legislation is necessary or desirable, Counsel are requested to indicate the points to which such legislation should be directed and the form in which it should be framed. (It is suggested that, in case of such legislation being adopted, it might validate all the debentures heretofore taken over direct, whether for surplus moneys, sinking fund, insurance fund, or on any other account and in connection with the exercise of the powers of investing in public securities given by section 109 (d), and section 122 might expressly authorize the Corporation for the future to reserve for themselves and to take up at par, either in the name of the Commissioner or otherwise on their behalf as may be deemed best any portion or portions which they may require for their own investments of any future loans which under their borrowing powers they may obtain for. It might also, if Counsel should consider that necessary and possible, provide that the debentures so invested in shall be kept alive and that such investments shall *not* operate to extinguish the debt which such debentures represent).

2. There debentures can only in our opinion be validated by legislation.

3. We are of opinion that the purchase by the Corporation of one of its own debentures causes an extinguishment or cancelment of the same and that such debenture thenceforth is no longer a security capable of being negotiated.

4. The state of affairs if our opinion be correct is as follows :—

The Corporation can invest "surplus" moneys and "sinking fund" moneys in public securities and can therefore legally invest in Bombay municipal debentures. Such debentures, when purchased, are extinguished, so that the practical result of a purchase by the Corporation is a payment of so much of its debt as is represented by such debentures. The Corporation has, however, not invested in municipal debentures, inasmuch as the debentures issued to the Corporation not being issued against moneys borrowed are invalid.

It thus becomes necessary in our opinion to make provision by legislation for three things :—

(a) To provide that, in respect of any moneys which the Commissioner on behalf of the Corporation is empowered to invest in public securities, the said Corporation may issue debentures in the name of _____ on behalf of the Corporation and that such debentures so issued shall be valid and negotiable in all respects in the same manner as though issued to or in the name of any other person.

(b) To provide that the purchase by, or the transfer, assignment or endorsement to, the Bombay Municipal Corporation or any person on behalf of the said Corporation shall not operate as a cancelment or extinguishment of any municipal debenture issued by the said Corporation, but the same shall be valid and negotiable in the same manner and to the same extent as though held by, or transferred, assigned or endorsed to, any other person.

(c) To provide that all debentures hitherto issued by the Corporation to on behalf of the Corporation (a schedule of which should be annexed) are to be deemed valid and negotiable in all respects and in the same manner as though the same had been issued against moneys borrowed from the Secretary of State or any other person.

And Counsel are requested to advise generally.

Generally we think that legislation on the lines above indicated will solve the difficulties past and future.

BASIL LANG.
J. D. INVERARITY.
J. JARDINE.

21st April 1893.

A Bill to supplement the provisions of the City of Bombay Municipal Act, 1888, with respect to the Investment of Sinking Funds and Surplus Moneys, and to validate certain Debentures.

WHEREAS it is expedient to supplement the provisions of the City of Bombay Municipal Act, 1888, with respect to the investment in public securities of Sinking funds and surplus moneys of the Municipal Corporation of the City of Bombay; AND WHEREAS it is also expedient to remove doubts which have arisen with respect to the validity of certain debentures of the Corporation, in which portions of their Sinking funds and surplus moneys purport to have been heretofore invested, and to obviate the extinction of such debentures of the Corporation as have been, or may hereafter be, issued in or transferred to the name of the Corporation, or to the name of the Municipal Commissioner for the City of Bombay on behalf of the Corporation in respect of any such investment.

It is hereby enacted as follows:—

1. This Act may be cited as “The City of Bombay Municipal Investments Act, 1896.”

2. In respect of any Sinking funds which, by the City of Bombay Municipal Act, 1888, the Corporation are directed or empowered to invest in public securities, and in respect of any surplus moneys which, by the same Act (as amended by the City of Bombay Municipal Act Amendment Act, 1893) the Municipal Commissioner on behalf of the Corporation is empowered to invest in like securities, it shall be lawful for the Corporation to reserve and set apart for the purposes of any such investment any debentures to be issued on account of any loan for which the sanction of the Governor-General of India in Council shall have been duly obtained under section 106 of the City of Bombay Municipal Act, 1888, and the issue of any such debentures direct to and in the name of “The Municipal Commissioner for the City of Bombay” on behalf of the Corporation shall not operate to extinguish or cancel such debentures, but

every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

3. The purchase by, or the transfer, assignment or endorsement to, the Corporation or to the Municipal Commissioner on behalf of the Corporation of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.

4. All the several debentures of the Corporation heretofore issued, transferred, assigned or endorsed in the name of the Corporation or in the name of the Municipal Commissioner on behalf of the Corporation as specified in schedule A, and all debentures heretofore issued by way of renewal, consolidation or subdivision of any of the said debentures shall be deemed to be and to have always been valid and negotiable in all respects and in the same manner as if the same had been issued against moneys borrowed from the Secretary of State or any other person.

5. The signature of the person for the time being holding the office of the Municipal Commissioner for the City of Bombay to a transfer of any debenture standing in the name of the Corporation or of the Municipal Commissioner on behalf of the Corporation shall be valid and sufficient, notwithstanding that such person may not have held the said office at the time when such debenture was issued, transferred, assigned or endorsed to the name of the Corporation or the Municipal Commissioner as aforesaid.

Bombay Act I of 1898 was thereupon passed.

GRANT IN AID TO THE BOMBAY NATURAL HISTORY SOCIETY.

OPINION.

"In acknowledging receipt of your No. 7718 dated the 7th ultimo, we have the honour to state, that having regard to the provisions of sections 136 and 137 of the present Municipal Acts we are of opinion that it is not legally competent to the Corporation to grant money to the Natural History Society for the purposes of the Society, but we can see no objection whatever to such a grant being made under section 63 (d) of the New Act when it becomes law, and further we do not see that the proposal of the Natural History Society to charge fees for entrance to their proposed garden will in any way affect the right

of the Municipality to make such grant provided of course that the garden and the Zoological collection of the Natural History Society are made public (as no doubt they will be) in the sense that the public will have access to them by payment. As regards the present Zoological collection of the Municipality it appears to us that strictly speaking the Corporation were not legally justified in expending municipal moneys upon procuring or maintaining them. Having done so, however the collection no doubt is the property of the Corporation, and as such can, we think, be disposed of in such manner as the Corporation shall deem proper.

The result it will therefore be seen, is that, in our opinion the collection may be transferred to the Natural History Society, and that when the New Act has become law, but not until then, it will be legally competent to the Corporation to grant a sum to the Society for maintaining the garden and zoological collection which the latter propose to establish.

(Sd.) CRAWFORD AND BUCKLAND."

RE MUNICIPAL SERVANTS BEING AMENABLE TO PROSECUTION (SECTIONS 521 AND 528).

Re-Question whether and how far, Municipal officers and servants are "public servants" under the Indian Penal Code?

CASE.

Section 521 of the City of Bombay Municipal Act, 1888 provides that "the Commissioner and Deputy Commissioner and every Councillor and every Municipal officer or servant appointed under this Act, and every Contractor or Agent for the collection of any Municipal tax, and every servant or other person employed by any such Contractor or Agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code."

Section 528 enacts that "the provisions contained in Schedule R for regulating the constitution of the Corporation and other matters until this Act is brought fully into operation shall be of the same effect as if they were enacted in the body of this Act."

Schedule R (section 6) provides that the "Commissioner and the Deputy Commissioner, if any, and all Municipal officers and servants holding office on the day before this Act comes into force, shall be deemed to have been appointed under this Act, and until an order to the contrary is passed by competent authority under this Act, shall continue to hold respectively the same or the corresponding offices under this Act and to receive the same emoluments."

Sections 74 to 78 inclusive provide for the appointment of the Executive Engineer, the Executive Health Officer, the Municipal Secretary, the clerks and servants to be immediately subordinate to the Municipal Secretary.

Section 79 is as follows :—“(1) The Commissioner shall, as soon as may be after this Act comes into force and afterwards from time to time, prepare and bring before the Standing Committee a schedule setting forth the designations and grades of the other officers and servants who should, in his opinion, be maintained, and the amount and nature of the salaries, fees and allowances which he proposes should be paid to each.

“(2). The Standing Committee shall sanction such schedule either as it stands or subject to such modifications as they deem expedient. Provided that no new office, of which the aggregate emoluments exceed Rs. 200 per month, shall be created without the sanction of the Corporation.”

In accordance with the last mentioned section the Commissioner has, since the Act came into operation, prepared the schedule therein contemplated, and such schedule has been duly sanctioned by the Standing Committee.

Prior to the Act coming into operation, one Enoch Solomon was employed as a Sub-Inspector of Markets and Slaughter Houses, and subsequently thereto he continued to be so employed, his appointment being included in the schedule submitted to the Standing Committee as aforesaid under section 79 of the Act.

A charge was recently brought against Enoch Solomon under section 161 of the Penal Code for receiving an illegal gratification, and Counsel for the defence contended that the accused was not a public servant :—

- (1) because he was employed before the present Municipal Act came into force, and the Act only applied to Municipal officers and servants appointed under the Act and after it came into force; and (2) because a Sub-Inspector of Municipal Markets does not fall within either of the descriptions of persons specified in section 21 of the Indian Penal Code, and consequently to read the Indian Penal Code (when treating of public servants) as including Municipal officers and servants generally and amongst them such a Sub-Inspector would amount to extending by virtue of a Local Act the scope of an Act of the Imperial Government.

Section 137 of the Indian Railways Act IX of 1890 provides that every Railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

Section 79 of the Bombay Port Trust Act VI of 1879 enacts that “any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain or agree to accept or attempt to obtain from any person, for himself or for any other person, any

gratification whatever, other than legal remuneration as a reward for doing, or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person with the Board or with any public servant as such or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant."

It was argued upon the strength of the language of this last mentioned Act that, in the absence of similar provision in section 521 of the Municipal Act, the accused could not possibly, for the purposes of a prosecution under section 161 of the Indian Penal Code, be held to be a public servant, and in further support of such argument the illustration to clause 10 of section 21 of the Indian Penal Code was pointed to as showing that certain Municipal officers, whose duties came clearly within those described, would be held to fall within the meaning of section 21; but that other Municipal officers or servants whose duties did not come within the terms of those described, could not be held to be public servants.

Counsel is requested to advise:—

(1). Whether the provisions of section 521 of the Municipal Act apply to or include Municipal officers and servants employed as such before and continued in such employment after the Act came in force, or only those appointed since the Act came into operation?

(2). What is the precise legal effect of section 521 as regards those Municipal officers to whom it does apply. Are they amenable to prosecution in respect of offences by public servants under the Indian Penal Code, irrespective of whether their duties fall within either of the descriptions set out in section 21 of the Code?

(3). Is it advisable or necessary to amend the Municipal Act in order to render Municipal servants amenable to prosecution in respect of offences by public servants as defined in the Indian Penal Code; and if so, should the amendment be by substituting for section 521—a section similar to section 137* of the Port Trust Act—or in what other way?

And to advise generally.

1. The section 521 refers to Municipal officers and servants appointed under the Act, schedule R, section 6, which is of same effect as of the body of the Act says, that all Municipal officers and servants holding office on the day before the Act came into force shall be deemed to have been appointed thereunder. I am accordingly of opinion that section 521 applies to officers and servants employed as such before and continued in such employment after the Act came into operation.

2. I think section 21 of the Indian Penal Code must be looked to alone for the definition of public servant, and that a Municipal officer is not liable to prosecution as such unless he comes within the definition therein contained. I do not think that the provisions of section 21, Indian Penal Code, can be extended by section 521, Bombay Municipal Act.

3. I should say that a section similar to section 137* of the Port Trust Act would be a desirable substitute for section 521, Bombay Municipal Act.

(Sd.) JAMES JARDINE.

30th March 1892.

* This should be section 79 and not section 137.

No. 2687 of 1892.

GENERAL DEPARTMENT,
BOMBAY CASTLE, *3rd August 1892.*

To JAVERILAL UMIASHANKAR YAJNIK, Esq.,

President, Municipal Corporation of the City of Bombay.

SIR,—In acknowledging receipt of your letter No. 1898, dated 8th June 1892, in which you ask, on behalf of the Corporation, that, in order to render Municipal servants amenable to prosecutions in respect of offences by them as public servants as defined in the Indian Penal Code, Government may be pleased, whenever the amendment of the City of Bombay Municipal Act, 1888, may be under consideration, to strike out therefrom section 521, and insert in place thereof the section drafted in your letter; I am desirous to ask you whether in practice, section 521 of the Act has been found unsuitable, and what advantage it is considered that the proposed change will have over the existing law.—I have, &c.,

D. MACKENZIE,
Chief Secretary to Government.

No. 4931 of 1892-93.

BOMBAY, *16th August 1892.*

Forwarded to the Commissioner for favour of report.

JAVERILAL U. YAJNIK, President.

No. 11008 of 19TH AUGUST 1892.

Forwarded to the Solicitors for favour of report with special reference to the case of Enoch Solomon, in which the question first arose.—H. A. ACWORTH, Commissioner.

BOMBAY, *19th August 1892.*

To H. A. ACWORTH, Esq., Municipal Commissioner.

SIR,—In returning the letter from the Chief Secretary to Government which was forwarded to us for report, under your No. 11008, dated the 19th instant, we have the honor to state with reference to the provisions of section 521 of the Municipal Act, that practical difficulty has already been experienced in the prosecution of a Municipal servant for accepting a gratification and thereby committing an offence punishable under section 161 of the Indian Penal Code.

*Re Section
521 of the
Municipal
Act.*

The case in which this difficulty arose was that in which Enoch Solomon, late Sub-Inspector on the Market establishment, was in November last prosecuted for receiving a bribe of Rs. 5 from a woman, who was interested in a meat stall at one of the markets. In that case counsel for the accused contended that section 521 of the Municipal Act notwithstanding, he (accused) was not a public servant within the meaning of the Indian Penal

*Municipal
servants am-
enable to pro-
secution.*

Code, and consequently was not amenable to prosecution under section 161 of that Code, and though eventually the accused was discharged on other grounds, the Chief Presidency Magistrate was inclined to think this contention was well founded. The expression "public servants" is defined by section 21 of the Penal Code, and it is that definition, and that definition alone, which must be looked to in construing the expression wherever used in the Code consequently, unless any Municipal servant falls under one or other of the descriptions set out in section 21, Indian Penal Code, he cannot for the purposes of that Code become a public servant merely because the Municipal Act says he is to be deemed to be one.

Consequent on the point having been thus raised, you will recollect that the opinion of counsel (Mr. Jardine) was taken and that he advised as follows:—

"I think section 21 of the Indian Penal Code must be looked to alone for the definition of 'public servant' and that a Municipal officer is not liable to prosecution as such unless he comes within the definition therein contained. I do not think that the provisions of section 21, Indian Penal Code, can be extended by section 521, Bombay Municipal Act.

"I should say that a section similar to section 137* of the Port Trust Act would be a desirable substitute for section 521 Bombay Municipal Act."

For our own part we can feel no doubt but that is the correct view of the matter.

There are undoubtedly numerous Municipal servants whose functions are not covered by either of the descriptions contained in section 21, Indian Penal Code, but whose position and duties render it particularly desirable that they should be amenable to prosecution for accepting bribes; as matters stand they can only be dismissed.—We have, &c.

CRAWFORD, BURDER & Co.

No. 11461 OF 1892-93.

BOMBAY, 23rd August 1892.

Forwarded to the President, Municipal Corporation, with reference to his No. 4931, dated the 16th instant.

H. A. ACWORTH,
Commissioner.

Proposed by K. M. Shroff, Esq., seconded by D. A. D'Monte, Esq.—

"That, with reference to Mr. Chief Secretary Mackenzie's letter No. 2687, General Department, No. 6235, dated 3rd August 1892, on the subject of Municipal servants being made amenable to prosecution,

* Qy. Section.

in respect of offences by them as public servants, the President be requested to address Government in terms of the Municipal Solicitors' letter, dated 19th August 1892."

Carried.

No. 4459 of 1892.

BOMBAY CASTLE, 5th December 1898.

To the President of the Municipal Corporation for the city of Bombay.

SIR,—With reference to the correspondence ending with your letter No. 6287 dated 13th September 1892, on the subject of the amendment of Section 521 of the city of Bombay Municipal Act III of 1888, I am directed to forward herewith copy of a letter No. 1278 dated 17th ultimo, from the Chief Presidency Magistrate, and to remark that the result, of the prosecutions in the cases referred to therein scarcely seems to show that the Section quoted has proved ineffectual for the purposes for which it is enacted. I am to add that under these circumstances it appears to His-Excellency the Governor-in-Council that sufficient cause has not yet been shown for the amendment asked for.

W. L. HARVEY,

Under Secretary to Government.

No 1278 of 1892.

CHIEF PRESIDENCY MAGISTRATES COURT.

BOMBAY, 17th November 1892.

To the Acting under Secretary to Government, General Department.

SIR,—In acknowledging the receipt of your letter No. 3534 dated 30th September I have the honor to state for the information of Government that I discharged the accused in the case referred to on the following grounds:—

(1). That he had served in the Municipality for 12 years and had during that period often been promoted and had borne a good character.

(2). That for the last three years he had nothing at all to do with the stalls in the Crawford Markets.

(3). That two of the principal witnesses made conflicting statements and also denied having known one Syed Esmael, who had to do with the stalls in the Crawford Markets for several years.

(4). That it was probable the accused had, in carrying out his duties caused ill feeling towards himself among certain persons with whom he had to deal.

5. During the hearing of the case the question was raised before me as to whether the accused was a public servant, and I stated that I had considerable doubt as to whether the provisions of section 521 of the Municipal Act were sufficient to alter section 21 of the Indian Penal Code, the Municipal Act being a local Act.

6. Besides this case against Enoch Solomon, there were, during the past 5 years, two other cases against Municipal servants. In one a Municipal Sub-Inspector (Shurfoodin Dadoomeya) was charged with taking an illegal gratification and was convicted by the late Mr. Ryan and sentenced to 6 months' rigorous imprisonment in the House of correction. In the other case, a Municipal Muccadam (Ruttonshah Sultanshah) was convicted by me of receiving an illegal gratification and sentenced to six months' rigorous imprisonment in the Common Jail*.

C. P. COOPER,
Chief Presidency Magistrate
and Revenue Judge, Bombay.

LIGHTING OF PRIVATE STREETS.

EX PARTE THE MUNICIPAL CORPORATION FOR THE CITY OF BOMBAY *RE* LIGHTING OF PRIVATE STREETS AND OF LANES AND OARTS NOT BEING STREETS.

CASE FOR THE JOINT OPINION OF COUNSEL.

The accompanying printed copy of the proceedings of the Standing Committee relative to certain petitions from house-owners and residents in Kandawady Lane and Nawee Wady Lane respectively, in regard to the proposed removal of the Municipal gas lamps, by which such lanes have for many years past been lighted at the public expense, speak for themselves. The facts regarding these lanes or oarts and the consideration which have led to the proposal to leave the owners and residents to make their own arrangements for lighting them in future will be found fully set out in the Executive Engineer's report of the 6th May 1895, which is printed as part of those proceedings. The opinion of the Standing Committee on the subject was nearly equally divided, but eventually by the vote of the Chairman they passed a resolution "That, in the opinion of the Standing Committee, the lighting of the Nawee Wady and Kanda Wady lanes should be continued as heretofore." The

* See page 337 Vol. XVI Part I Corporation record for 1892-93.

question came before the Corporation on the 15th July 1895, and Counsel's attention is particularly drawn to the accompanying printed copy of the proceedings of the Corporation, from which it will be seen that, a resolution having been proposed to the effect that the lanes in question should continue to be lighted in future at the public cost, the President's ruling was asked for as a point of order "as to whether, after it had been brought to the notice of the Corporation that expenditure such as that proposed in the Standing Committee's resolution was not warranted under the terms of the Municipal Act, it was competent for the Corporation to pass such a resolution as that now before them." The President, after stating his reason for doing so, ruled that the motion was one which, if carried, would be illegal inasmuch as it would commit the Corporation to expenditure that was not authorized by the Act. He therefore considered he could not allow the motion to be placed before the meeting. Attention is invited to the ruling of the President and his reasons for it as set forth in the accompanying printed copy of the proceedings of the Corporation. The validity of this ruling was called in question at a subsequent meeting of the Corporation held on the 12th August 1895, and the power of the President to rule on any question of order other than a question of procedure as distinguished from a question of principle was denied, and it was resolved that Counsel's opinion should be taken. A copy of this last-mentioned resolution is also sent herewith.

Counsel's attention is called to section 3 (*w*), (*x*) and (*g*) of the City of Bombay Municipal Act, 1888, as to the meaning of the expressions "street," "public street" and "private street" as used in the Act. Section 61 makes it incumbent on the Corporation to make adequate provisions for (*inter alia*) "the lighting, watering and cleansing of public streets" [cl. (*n*)], and section 330 directs "that the Commissioner shall take measures for lighting in a suitable manner the public streets and Municipal markets and all buildings vesting in the Corporation." As to "private streets," section 305 empowers the Commissioner, with the sanction of the Standing Committee, to require the owners of adjoining premises to (*inter alia*) light such streets in such manner as he shall direct, and section 306 contains provision under which, after a private street has been levelled, metalled, &c., to the Commissioner's satisfaction, he may, and, if lamps, lamp posts and other apparatus necessary for lighting have been provided to his satisfaction, he must, if requested by any of the owners of the street, declare it to be a public street.

Apart from these sections (305 and 306), there is no express provision in the Act regarding the lighting of private streets, nor is there any such provision in regard to the lighting of places other than streets, Municipal markets and buildings vesting in the Corporation. It is quite certain that Nawee Wady and Kanda Wady lanes are neither of them public streets, nor probably are

they streets at all within the meaning of the Act. In support of the view that the Corporation have the power under the Act to provide for the lighting of streets and places other than public streets, it has been suggested that section 63 (*k*) is sufficiently comprehensive, while, in support of the contrary view, it was contended at the meetings of the Standing Committee and Corporation above referred to, that, inasmuch as the Act expressly provides for lighting of public streets (section 330) and gives power to the Commissioner (section 305) to call upon owners of private streets to light them, it must be held that section 63 (*k*) could not be held to intend to apply to any matter which, as in the case of lighting, was provided for by the Act. This was the view taken by the President. The question as to lighting places not falling within the definition of public or private streets was not really debated at the Corporation. It is one, however, which may well be considered in the present connection.

As regards the President's ruling and the limits to which his powers extend, Counsel are referred to rule 9 of the accompanying copy of the rules for the conduct and regulation of business at meetings of the Corporation, which provides that "The Chairman (President) shall decide summarily all points of order or procedure."

• Points of order.

The question on which advice is now sought is what is included within the words "points of order or procedure." Does the phrase mean only the conduct of a debate, or does it mean what can be the subject of debate? To put an extreme case would the President be compelled to submit to the meeting a proposition either obviously illegal or disloyal as distinguished from one upon which, as in the present instance, there may be two opinions.

The answer to the third question is apparently involved in the answer to the second, and it is not necessary, therefore, to further refer to it.

Counsel are requested to advise the Municipal Corporation.

QUESTIONS.

1. Whether the Corporation have power under the Municipal Act to provide at their discretion for the lighting (*a*) of private streets and (*b*) of courts, lanes, or other places not being "streets" and not vested in the Corporation.

ANSWERS.

1. If the Corporation is of opinion that lighting in cases (*a*) and (*b*) is likely to promote public safety or convenience, we are of opinion that section 63, clause *k*, authorizes expenditure on such lighting. Such discretion is not in our opinion taken away by section 305, which authorizes the Commissioner with the sanction of the Standing Committee to require the lighting to be done in a different manner. It is to be noticed that the power in section 305 is given to the Commissioner with the sanction of the Standing Committee. The powers under section 63 are exercised by the Corporation, and we fail to see how such powers can

be limited by a special power given to another person. It is also to our mind very doubtful whether on the true construction of section 305 the Commissioner can require any one to light a private street unless at the same time he requires them to level, metal or pave and drain by the same requisition. If he cannot call on them only to light, section 305 has a very limited application, and this would afford our view additional support.

2. We are of opinion that the President can rule whether a particular proposition is in order and we think that a proposition *ultra vires* of the Corporation is not a proposition which is in order, *e. g.*, suppose an extreme case, that it was proposed to pass a resolution abolishing the office of Municipal Commissioner, we think the President could prevent it being put.

3. The Corporation are not concluded by such ruling if it is incorrect. Application could be made to the High Court under section 45 of the Specific Relief Act for an order compelling the President to perform his duty and put the proposition if it was in fact a proper one.

Regarding the Ruling of the Presidents on point of order.

2. Whether the President of the Corporation has power to rule that a motion or proposition, otherwise in order, shall not be submitted to the Corporation on the ground that it is *ultra vires* or not within the authority of the Corporation to pass.

3. Whether the Corporation are concluded by such ruling or not.

And to advise generally.

September 2nd, 1895.

JOHN MACPHERSON.
J. D. INVERARITY.

DEPUTATION TO CALCUTTA. PAYMENT OF EXPENSES OUT OF MUNICIPAL FUND.

BOMBAY, 20th December 1890.

To

H. W. BARROW Esq.,

Municipal Secretary.

SIR,—At the interview which you had with us to day, you requested us to advise you upon the question, whether the expenses to be incurred in connection with the proposed deputation to Calcutta of a Special Committee of the Corporation for the purpose of interviewing the Viceroy in view to obtaining sanction to an extended period for repayment of future instalments of the Loan for the Tansa Water Works, can legally be defrayed out of the Municipal Fund. We have carefully considered the matter,

and are clearly of opinion that such expenses can legally be so defrayed. By section 61 of the Municipal Act it is declared to be "incumbent to the Corporation to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take for (*inter alia*) the construction and maintenance of works and means for providing a supply of water for public and private purposes." By section 106, the Corporation are authorized to borrow with the sanction of the Governor-General in Council "any sum necessary for the purpose of defraying any costs charges, or expenses incurred or to be incurred by them in the execution of this Act," and by section 109 it is declared that the exercise of the power of borrowing so conferred shall be subject to the following provision, among others, namely:—"That the money may be borrowed for such time not exceeding 60 years as the Corporation with the sanction of the Governor General-in-Council determine in each case." And lastly by section 118 it is provided that "the moneys from time to time credited to the Municipal Fund shall be applied in payment of all sums, charges and costs necessary for the purposes specified in sections 61, 62 and 63 or for otherwise carrying this Act into effect." The object of the proposed measure, as we understand it is, to endeavour by direct personal representation (other means having failed) to obtain the sanction necessary for fixing the full period permitted by the Act, as the period for repayment of the Tansa Loan that such a measure is a perfectly legitimate one, is not we think open to any reasonable doubt, having regard to the provisions which we have quoted from sections 61, 106 and 109, nor do we think it could be held that the payment out of the Municipal Fund of all expenses incident to that measure would not be a perfectly legal and proper application of Municipal money under section 118.—We have &c.,

(Sd). CRAWFORD BURDER & Co.

HOUSE CONNECTIONS.

Memo. for the Municipal Solicitors.

- (1) Has the Corporation resolution No. 12423, dated the 29th January 1896, any retrospective meaning or effect?
This question has arisen owing to the inclination of house-owners who have already done house-connection work at their own expense to claim a refund of cost from the Municipality (*vide* letter from the Secretary, Boys' Cathedral High School, to the Municipal Commissioner).
- (2) Does the Corporation resolution No. 12429, dated the 29th January 1896, refer to any house-connection work outside the sewered districts of the City?
Many parts of the City are at present unsewered. I maintain that the resolution does not refer to these parts

and that it is still the work of the house-owner to carry out his house-connection to cesspools or old storm-water drains; if this was not the case, the Corporation would have to do much work twice, and that surely is not intended.

- (3) Regarding the word "inside" used in the Corporation resolution No 2263, dated the 3rd November 1882, does this mean that all the fittings of nahani traps and waterclosets must be undertaken at Municipal expense and does it mean that drains inside stables of party-walled houses are also to be laid and constructed in the same way?

It appears that for the meaning of the word "inside" referred to, it should be considered what actual work has been performed by the Corporation in the past under this resolution. In no case has the Corporation done more in the past than fix the nahani discharge pipe with a grating in the nahani, and there is no case on record where a drain has been laid under a house for the benefit of that house-owner.

I maintain that it was never contemplated to do the inside drainage of houses or stables at Corporation's expense.

- (4) Under the Corporation resolution No. 12429, dated the 29th January, is the Municipality bound to replace any fittings that from time to time may be removed from houses by unknown persons?

The words used in the resolution No. 2268, dated the 3rd November 1882, are "maintain all fittings outside the four walls of the house in good order hereafter." This would appear to mean fair wear and tear for fittings and not replacing of pipes, &c., wilfully removed. This is a point where the Municipality must be protected.

- (5) Are the connections of water-closets contemplated in the word "house-connections"?

It would appear that water-closets might be considered a luxury in this country, and not a necessity.

- (6) Is it correct, as stated in my No. D-11093, dated the 17th February, in reference to the Health Officer's query in his No. 35885, dated the 15th February, para. 3, that section 231 of the Municipal Act will be more or less inoperative under the aforesaid Corporation Resolution except for inside work, and that section 232 and so far as sections 234 and 257 refer to section 232, will still continue to be used?

It is understood in answering this question that the Municipal Commissioner has given instructions that the Corporation resolution No. 12429, dated the 29th Janu-

ary 1896, shall have full force and that the Municipal Commissioner does not exercise the power conferred on him under the Act which cannot be over-ridden by any resolution of the Corporation.

- (7) What does the word "outside" mean as used in the Corporation resolution No. 2268, dated the 3rd November 1882?

Here again the practice of the Corporation has to be considered. In the past all the outside fittings, including down-take cast-iron pipes, gully-traps, pipe-drains, &c., have been undertaken by the Municipality. It is presumed that the same procedure will remain in force.

- (8) Does the word "house-connection" include the paving of a gully where an open drain has not been constructed in a gully? Can a house-owner ask for the paving as insisted on around stand-pipes to be done at municipal expense?

- (9) Does the Corporation resolution No. 12429, dated the 29th January 1896, include the house-connection of Government or Port Trust buildings?

The resolution No. 2268, dated the 3rd November 1882, did not contemplate the connection of any Government or Port Trust buildings, as it is stated that it "shall not apply either as regards construction or maintenance to any property on which the consolidated rate is not charged."

The Presidency Executive Engineer has stated to the Municipal Commissioner that an opinion has been taken on this point and given in favour of Government.

- (10) What is the liability of the Municipality regarding the large stock of fitting which some of the plumbers of this city have? Have they any claim for damages or loss against the Municipality?

EX PARTE

THE MUNICIPALITY *RE* HOUSE-CONNECTIONS.

Counsel is referred to the accompanying case and opinion dated 9th October 1895 on the subject of House-connections for the First Drainage Section.

The motion therein referred to, of which Mr. P. M. Mehta had given notice, was not carried, but on the contrary the Corporation, at their meeting of the 29th January 1896, not only affirmed the principle embodied in their previous resolution of 1882, but extended the application of it to cases expressly excluded from it and to *all* districts of the City.

Copies of the resolutions of 3rd November 1882 referred to in the previous case and of the recent resolution of 29th January 1896 are sent herewith together so that Counsel can judge to what extent the former is extended by the latter. The resolution of 29th January 1896 is very far reaching in its effect, much more so probably than the Corporation realized at the time it was passed; but, however this may be, various questions have arisen and doubts have suggested themselves to the Executive Officers in regard to its application. These can perhaps best be illustrated by a number of queries which have been stated in a "Memo. for the Municipal Solicitors" which has been submitted by Mr. C. C. James, Drainage Engineer, with whose department rests the duty of carrying out the practical working of the orders of the Corporation. A copy of this memo. will be found at the foot of the copy of resolutions of 1882 and 1896.

As the Commissioner is desirous of having an authoritative opinion to guide the Drainage Engineer in future in dealing with these questions as they arise, we have recommended that the opinion of Counsel be obtained, and this has been authorized.

With regard to Mr. James' first query as to whether the resolution of 29th January 1896 has retrospective effect, though there may (from the way in which the resolution has been framed) be room for argument in favour of the contrary view, we imagine that counsel will probably advise, as we have done (verbally), that the resolution of 29th January 1896 has *not* retrospective effect. We take it that the closing words of that resolution, namely, "should be made applicable *in the future* to all the districts of the city," must, notwithstanding the previous somewhat ambiguous declaration that "the Corporation still adheres to that resolution (the "resolution of 1882), including in its scope all houses and out-houses and all new houses which were formerly excluded," be taken to indicate that the resolution was not intended to be applied retrospectively.

Mr. James' second query we have also (though perhaps with a little more hesitation) answered in the negative.

It is true that the resolution of January 1896 says the former resolution is to be made applicable in future to *all* the districts of the city, but from the context, and from the circumstances under which both resolutions were passed, it seems to us that this must be read to mean all the sewered districts including of course those hereafter to be sewered. The resolution of 1882 had reference only to "house-connections" and those only in the first section of the new main Drainage Works. That this is so, is evident from the minutes of the proceedings of the Corporation of that date, which run as follows:—

"Considered the report of the Committee appointed by the Corporation on the 21st December last to inquire into the question of the payment of the cost of making house-connections on the first section of the new main Drainage Works, including

“Kamathipura districts”—and then follow the several resolutions which were proposed including that which was actually passed. The resolution of January 1896 in extending that resolution is still dealing only with “house-connection.” The expression “house-connections,” is not defined, but, taken in conjunction with the circumstances, it is quite evident that these were the connections between the houses and the sewers as distinguished from the cases contemplated by section 232 of the Municipal Act, where, in the absence of a municipal sewer or drain in the neighbourhood, premises might have to be drained into a cesspool. The sewerage system is intended to be gradually extended into all the districts of the city, but in those districts or places which are not as yet within reach of the sewers it is submitted that, until such sewers are laid and the connections between them and the houses become practically completed as contemplated by section 231 of the Municipal Act, the resolutions of the Corporation now under consideration can have no application, as there are no “house-connections” within the contemplation of those resolutions; it is submitted in fact that matters remain as before as regards the power of the Commissioner to compel the owners of properties in such cases to carry out suitable drainage works themselves.

With regard to Mr. James’ third query, we have felt unable to agree in his contention that the resolution of January 1896 did not contemplate the inside drainage of houses or stables at the expense of the Corporation. His remarks on the subject can best be illustrated and understood by a reference to a very complete model which, if Counsel considers desirable, he will be prepared to bring with him and explain personally in conference.

The Corporation have expressly, by their resolution of 1882, undertaken the construction of the house-connections “both inside and outside the house,” and we take it this means the actual pipe or other connection from the place to be drained (whether nahani, privy, water-closet, or horse’s stall) to the sewer and should therefore include a masonry drain (where one is necessary) under a party-walled house or the various tributary drains from each part of a large stable to the entrance to such stable as well as from thence to the sewer.

As to Mr. James’ fourth query, it has appeared to us that the Corporation having, by their resolution of 1882, expressly undertaken “to maintain all fittings outside the four walls of the house in good order hereafter,” have deliberately taken upon themselves the risk of robbery or removal of such fittings.

With reference to his fifth query, the answer must apparently be in the affirmative if the view we have suggested as to the meaning of “house-connections” is correct. The Corporation do not appear to have undertaken responsibility for the fittings of a water-closet, but they have apparently undertaken to make the actual connections from water-closets to the sewers.

To sixth query, the answer must apparently be in the affirmative. Section 231 (a) of the Municipal Act will apparently become practically a dead letter, as the only place legally set apart for the discharge of drainage is, in sewered districts, the sewer; in other words, though, in deference to the decision of the Corporation, the Commissioner will refrain from exercising the powers conferred by section 231, that section will still remain in force.

There seems to be no doubt that the answer suggested by Mr. James to his seventh query is correct.

As to eighth query we are aware of no reasons for holdings that the paving of a gully, where such paving does not in itself constitute part of the connection (as it does in the case of some V-shaped gully floors) is included in the work for which the Corporation have undertaken the responsibility, nor does there seem to be any good reason why owners of property should not be under the same responsibilities as before in regard to the provision of paving around water stand-pipes which appear to be rather in the nature of "appliances necessary for the purpose of gathering the drainage from and conveying the same off the premises" [section 231 (b)] than in the nature of "house-connections" as we understand that expression.

As to query No. 9 there seems to be no reason to doubt that the opinion which, it appears, has already been taken on behalf of Government is correct. The resolution of January 1896 is so very comprehensive that we can see no room for suggesting that the house-connection of Government or Port Trust buildings is excluded from its operation.

A further query has been suggested by Mr. James since his "Memo. for the Municipal Solicitor" was prepared, namely, whether the Municipality will be under any liability to local plumbers and others who have brought out large stocks of fittings, &c., but who, now that all house-connection work is to be done by the Municipality themselves, may have considerable difficulty in utilizing or disposing of such stocks; it is presumed these persons must be taken to have acted entirely on their own responsibility and that they can establish no legal claim against the Municipality.

Counsel is requested to advise—

1. Whether the Corporation's resolution No. 12429, dated the 29th January 1896, has any retrospective effect.

1. I am of opinion the resolution has not a retrospective effect.

2. Whether the Corporation resolution No. 12429, dated the 29th January 1896, affects in any way the position and responsibilities of owners of properties in portions of the city outside the sewered districts, to carry out at their own expense such works as may be necessary for the proper drainage of their premises into cesspools or otherwise as contemplated in section 232 of the Municipal Act.

2. I am of opinion that the resolution only refer to sewered districts.

3. Whether under the Corporation resolution No. 2268, dated the 3rd November 1882, the Municipality are responsible for the *fittings* of nahanui traps and water-closets or only for the actual drain connection from the main or water-closet as the case may be to the sewer. And are the Corporation under that resolution responsible for (a) inside drainage work of stables, such as the tributary drains from the several stalls or parts of the stable into the comparatively larger drain from the stable to the sewer; and (b) for the laying of masonry drains under houses where such means of connection with the sewers are found to be necessary.

4. Whether under the Corporation resolution No. 12429, dated the 29th January 1896, the Municipality would be bound to replace from time to time any external pipes or fittings forming part of the house-connection which might be stolen or removed without default of the owners of the premises.

5. Whether the Municipality are, under the resolutions of 1882 and 1896, responsible for making the connections between water-closets and the sewers.

6. Whether, having regard to the resolutions in question, the provisions of section 231 of the Municipal Act will not, as long as those resolutions are acted upon, become inoperative except as regards the provision of appliances and fittings as distinguished from the actual house-connection.

7. Whether the provisions of section 232 of the Municipal Act will still be applicable in cases outside the sewered districts *i. e.*, where there is no municipal drain or place legally set apart, &c., within 100 feet from some part of the premises.

8. Whether, having regard to the resolution No. 2268, dated the 3rd November 1882, the Municipality will have to undertake all the outside fittings including down-take cast iron pipes gully-traps, pipe-drains, &c., necessary for the purpose of the house-connection.

9. Whether the expression "house-connection" for the purpose of these resolutions should be held to include the paving of a gully, where such gully does not constitute a part of the connection proper between the parts of the premises to be drained and the sewer, and whether house-owners could still be required, as they have been heretofore, to provide the proper paving around water stand-pipes.

2. I am of opinion that the resolution refers only to the connections between the sewer and the place of deposit from which the matter deposited is to be conveyed to the sewer and does not include the maintenance or construction of the place of deposit. I think they are responsible for the drains mentioned in A and B.

4. I am of opinion they would be bound.

5. I am of opinion they are responsible.

6. I think so.

7. I think it will still be applicable in these cases.

8. I am of opinion that they will.

9. I am of opinion that the paving of such gullies is not within the resolutions and that the house-owners are liable, as heretofore, in respect thereof.

10. Whether the Corporation resolution No. 12429, dated the 29th January 1896, applies to house-connection of Government and Port Trust Buildings.

10. I am of opinion that it does apply.

11. Whether the Municipality, in giving effect to the resolutions in question, would be under any liability to plumbers or others who have brought out large stocks of fittings which they may have difficulty in disposing of.

11. They would, in my opinion, be under no liability.

And to advise generally.

I should say it was doubtful whether the Municipality intended to include in their resolution Government and Port Trust buildings and stables, and I should advise that those cases should be submitted to the Corporation for an expression of their opinion as to whether they were included and, if they were not intended to be, the resolution could be amended so as to give effect to the real intention.

March 10th, 1896.

J. D. INVERARITY.

HOUSE CONNECTIONS IN 1ST DRAINAGE SECTION.

EX PARTE.—THE MUNICIPAL CORPORATION OF THE CITY OF BOMBAY RE HOUSE CONNECTIONS FOR 1ST DRAINAGE SECTION.

CASE FOR THE OPINION OF COUNSEL.

Shortly after the present system of sewerage in Bombay was commenced, a question arose as to whether the cost of making the house connections with the new sewers should be thrown on the house-owners [which the provisions of the Municipal Acts of 1872 and 1878 (then in force,) would have allowed], or should be borne by the Municipality.

On the 21st December 1881 the Corporation passed a resolution as follows:—“(1) that the Corporation are of opinion that the Municipality should undertake the work of making house connections in the 1st Section of the new main drainage works, (2) that the cost of making the said house connections be defrayed by the Municipality.”

On the 3rd of November of the following year (1882) the Corporation passed a further resolution as follows:—“That the

“ Municipality undertake to pay for the entire cost of the construction of house connections both inside and outside the house and to maintain all fittings outside the four walls of the house hereafter, provided that this undertaking on the part of the Municipality shall not apply to houses to be built hereafter except so far as the maintenance is concerned and that it shall not apply either as regards construction or maintenance to any property on which the consolidated rate is not charged in full (except in the case of charitable and religious institutions). That in the case of any building standing in its own compound the question of the payment of the cost of constructing and maintaining the connections be referred by the Commissioner to the Corporation as he may deem necessary.”

And on the 3rd of June 1887 it was further resolved by the Corporation as follows :—“ That in the opinion of the Corporation

the work of making house connections to mills and trading concerns as well as to private buildings in the first drainage section should be undertaken by the Municipality at Municipal expense in accordance with the terms of the Corporation's resolution No. 2268, dated 3rd November 1882.” It will thus be seen that from the commencement the Corporation have been inclined to hold that in the first drainage section the house connection should be made at Municipal expense. In order to defray the cost, the Corporation have raised Rs. 5,75,000 (portion of a loan of 44 lakhs known as the Sanitary Works Loan) for the express purpose of providing the funds necessary for making the house connections in this section. Out of that loan 2½ lakhs have already been spent on the work, and there is still a balance of about 3½ lakhs available and unspent. The Commissioner's letter to the Municipal Secretary, dated the 23rd September 1895 (print sent herewith), shows what has been done so far in the matter of making connections, and from that it will be seen that there are a very large number of houses in the 1st drainage section still remaining to be connected. It will also be seen that the cost of completing the connections in this 1st drainage section will very largely exceed the amount raised and budgetted for the purpose. Under these circumstances Mr. Pherozeshah M. Mehta has given notice of his intention, at the meeting of the Corporation on the 10th instant, to move for the rescission by the Corporation of their previous resolution of November 1882. Copy of his notice of motion is sent herewith. The result of this, if carried, will, of course, be that house-owners will be called on to bear the expense of connecting their own houses just as they have been and will be called on to do so in portions of the city other than the first drainage section, and if they fail to do so, the provisions of the Act to compel them will have to be put in force. One complication which may arise is that in most cases notices have already been served long ago on all house-owners in this district to the effect shown in the printed form sent herewith.

Counsel's attention is drawn to section 260 of the Municipal Act. In the Acts of 1872 and 1878 (which were in force when the resolution of November 1882 was passed) there was no corresponding section, and the Acts apparently contemplated that all works for drainage, &c., of private properties should be done at the expense of the owners as they provided that such expense should be "recoverable" from such owners. The resolution of November 1882, it will be noticed, not only purports to undertake the cost of construction, but also maintenance of all external fittings, and in this connection Counsel is referred to section 242 of the present Municipal Act under which such fittings vest in the Corporation unless they have otherwise determined.

Counsel is requested to advise:—

QUERIES.

1. Whether, under the circumstances stated, the Corporation can legally rescind their resolution of 3rd November 1882, or whether house-owners in the 1st drainage section whose houses have not yet been connected could establish any legal obligation on the part of the Municipality in their favour and could compel the Municipality to carry out that resolution in its entirety.

2. Whether the fact that the loan has been raised for the purpose of carrying out these works and that a considerable balance of that loan still remains unspent affects the question raised in the last query.

3. Whether in that event there would be any advantage in exhausting the loan in the manner determined on prior to deciding for the future that house-owners are to be called on themselves to bear the cost of the works.

4. In the event of the Municipality being in Counsel's opinion legally committed to proceeding with the house connections in the first drainage section in accordance with the resolution of November 1882, either to the full extent of houses remaining unconnected or the extent of the unexpended balance of the loan, does the fact of their having undertaken and being bound to carry on such work create or give rise to any legal right on the part of owners elsewhere than in the first drainage section to have their houses connected on similar terms.

OPINION.

1. I am of opinion that they can rescind the resolution. They have resolved to pay for what they were not bound to pay for, and can decide now not to do so. They have entered into no contract or incurred any legal liability to any one *unless* there is any particular house-holder who has acted on the representation contained in the resolution, in which case the querists would be estopped in that particular instance from declining to pay for what they represented they would pay for.

2. I think this does not affect the question.

3- No.

4. No.

5. Where house connections have been put up at Municipal expense, are the Municipality liable (a) by virtue of the Resolution of 3rd November 1882, or (b) apart from that Resolution, to maintain and keep such connection and the incidental fittings in repair?

5. I think they are apart from the resolution as these fittings are vested in the Municipality by section 242 having been made at the charge of the Municipal Fund. If the Corporation determine that they shall not vest under section 242, it may be that they would not, after such resolution, be bound to maintain, but I confess I am not at all clear as to what is meant by "or shall *at any time* otherwise determine" in section 242. Whether this gives a right of *divesting* after the property has vested is doubtful. It seems to me that wherever the Municipality have already done the work they cannot recover the cost from the owner. The owner might fairly say; "If you had not sent me the notice that, if I did not do the work, you would do it at your own expense, I would have done the work myself. If I had known I would have to pay, in any case, I should have done it myself."

In cases where the work has not been done, the notice sent, I think, can be withdrawn and a fresh notice sent under section 231 giving notice that, if the work is not done, the Commissioner will do it at the owner's expense under section 489.

And to advise generally.

J. D. INVERARITY.

October 9th, 1895.

PUBLIC STREETS.

BOMBAY, 26th June 1893.

TO M. C. MURZBAN, Esq., Executive Engineer.

SIR,—We have the honour to return herewith the correspondence and papers on the subject of repairs to Moogbhat Cross Lane, upon which you consulted us on the 19th instant.

The first question as pointed out in the Commissioner's No. 4722, dated 6th instant, is whether the lane in question is a street at all. The evidence available on this point appears to us to be inconclusive and meagre.

It seems to be certain that the lane has been open to access for some years and probable that this has been the case for upwards of 20 years, but, in the absence of satisfactory evidence of residents of the neighbourhood (which apparently cannot be counted on), we do not see how the facts in this respect could be established, as Colonel Laughton's plan is not of itself evidence. But even if uninterrupted public passage and access over the lane for 20 years could be proved, we should still probably be confronted with the same difficulty which was met with in the Bhoiwada-Parel case (Hari Dwarkaji), namely, the difficulty that, albeit a right of passage and access was established, such right is limited to the passage and access over portions only of the passage, acts of ownership of a more or less vague and shadowy description having, as it is alleged, been exercised at intervals by the owners of the houses in the lane over other somewhat undefined portions abutting on their respective houses. We refer to the construction of *otlas* or raised spaces at Devali time and the making of temporary erections at the time of marriages, &c., both of which, it will be remembered, formed prominent features in the evidence in the Bhoiwada case. Enquiries, we understand, show that the custom of reserving the use of portions of the passage for such purposes as above mentioned has in fact prevailed in the present case, and this being so, it seems to us that, bearing that decision in mind, the limits of the street (assuming the lane in question to be a "street") might be held to be so restricted and undefined as to render it practically impossible to recover the expenses which have been incurred from the owners of the houses abutting on the lane.

We notice it is stated that the masonry side drain alongside the lane was not made till January 1866; if so, even assuming the lane to have then been a street, this drain did not become vested in the Corporation of Justices by section 149 of the Municipal Act of 1865, nor consequently did it pass by section 62 of the Act of 1872 and section 88 of the present Act to the Corporation as constituted by those Acts respectively. The lane therefore was not, by reason of its existence before the present Act came in force, a public street, nor did the pipe sewerage operations render it such, they being subsequent in date to the present Act. A further question suggests itself, namely, whether, the lane, having now, as we presume, been levelled, metalled, &c., to the satisfaction of the Commissioner, can be declared a public street under section 306; this again depends (1) on whether it is a street at all, and (2) on whether the owners would object. The first point we have already considered, but it seems to us that, if a notice were put up under that section and

the owners acquiesced or did not object, this would go far to get over the insufficiency of evidence of access for 20 years and also difficulty as to the alleged reservation of rights of ownership over portions. The conclusions therefore at which we have arrived upon a consideration of all the circumstances before us are—

- (1). That the lane in question may be, and probably is, a "street," but that the evidence at present is not sufficient to establish this and that, even if it were, the actual limits of the street might be restricted to an almost indefinite extent by evidence of reservation of rights of ownership over portions adjoining the respective houses.
- (2). That it is not a public street.
- (3). That, under the circumstances, it would not be advisable to proceed against the owners for recovery of the expenses which have been incurred in repairing the lane.
- (4). That, with the acquiescence of the owners (whose views on the subject might first be ascertained), the lane might now be declared and made a public street if that course be deemed desirable. The present case is illustrative of the many difficulties which arise in regard to so-called street, and though each case must of course depend upon the particular circumstances affecting it, we are disposed to think that in doubtful cases it may be wiser not to attempt to interfere. If the Fazendars and the owners of property in such localities desire the Municipality to undertake the responsibility of maintaining in good repair the present ill-kept and inconvenient approaches to their premises, they must be prepared to comply with the conditions under which alone the Municipality can take them over and declare them public street.—We have, &c.,*

CRAWFORD, BURDER & Co.

RECOVERY OF TAXES.

BOMBAY, 4th July 1898.

To R. P. BRUNTON, Esq., Assessor and Collector.

SIR,—With reference to an interview which Mr. Michael had with us a day or two ago on the subject of taxes due by Mr. H. A. Wadia, we have the honour to state that the claim proposed to be made under the supplemental bill No. 7514 for the differ-

* See Proceedings of the S. C. and Corporation for 1893-94.

ence between the value of water charged for by meter measurement and the minimum sought to be applied under the proviso (2) to rules 1 and 2, part I of the Standing Committee's revised Resolution No. 1751, dated 3rd June last, cannot possibly, in our opinion, be supported.

This case affords an illustration of the difficulties, which it seems to us must attend any attempt to give effect to the provisos as to the minimum prescribed in rules 1, 2 and 4, and shows that the doubts we have expressed in previous correspondence as to the validity of those provisos and the suggestion we made for their omission when recently revising the form of Resolution were well founded.

Here we have two properties adjoining each other, one belonging to A and the other to B, but both let to the same tenants who are supplied with water through metered connections situate on B's ground, there being no available site for a connection on A's ground, which is a quarry. . You have satisfied yourself that the water consumed in the quarry on A's ground is drawn from the metered connections on B's land and cannot be drawn from any other source.

Under these circumstances you have rightly charged the tenants (the actual consumers) for the quantity of water supplied and they have paid the charge. This charge is of necessity a charge in arrear, that is to say, a charge, the amount of which is calculated when the actual consumption of the half-year is ascertained, and so long as the amount so charged is equal to or exceeds (as it apparently did for the second half of 1897-98) the amount which would be realised by a water-tax based on the aggregate rateable value of both premises, the Standing Committee's Resolution gives rise to no difficulty, but when (as is the case for the first half of 1897-98) it is less than that amount, the question arises, how is the difference to be recovered?

The Municipal Act says [S. 162 (3)] "That a person who is charged for water by measurement shall not be liable for payment of the water-tax, &c.," consequently it is quite clear that the tenants who are charged for the water by measurement cannot be held liable for any further charge based on the water-tax on rateable value. But to attempt to levy the difference from the owners, (A and B) would involve the issue of a supplemental property tax-bill for the half-year and for this there is no warrant in the Municipal Act. Moreover, it would involve a fresh assessment to the water-tax and an alteration in the Assessment Book, which, under Section 156 (f), no doubt properly shows the tenants as the persons chargeable for water, but which, in order to support such a claim, would have to show instead the owners (*both* of them) as assessable jointly in respect of both properties. Such an alteration would not, in our opinion, be justified by Section 167, and moreover the properties being the subject of separate ownership there seems to be no such unity of interest as to make their respective owners jointly liable.

We consider the bill No. 7514 should be cancelled; the bills No. 3095 and 3198 should be recovered from the tenants and the bills No. 7513 and 847 only from Mr. Wadia.

Similar difficulties must, it seems to us, arise in every case in which it is sought to apply the provisoes in question, and whereas we were before constrained to express the opinion that those provisoes were of very doubtful validity, the present practical attempt to apply them forces us now to the positive conclusion that they are altogether *ultra vires* and we strongly advise that they be reconsidered and withdrawn.*

We return all the papers—We have, &c.,

CRAWFORD, BROWN & Co.
Municipal Solicitors.

RE WATER TAX.

Queries.

Water Tax
Counsel's
opinion there-
on.

1. Whether in determining under Section 128, the rate at which the water tax shall be levied for the year 1901-1902, the Corporation should or can exclude from consideration as part of the proceeds of the tax, the item of Rs. 4,38,000 estimated as the aggregate of the sums to be debited to Municipal Departments in respect of their consumption of water during the year; in other words, whether that sum having been treated for budget purposes as Revenue from water, the Corporation can determine a rate, which, added to that sum, is estimated to result in a total amount exceeding the estimate of "the expenses of providing a water supply for the City, *viz.*, Rs. 16,24,000.

Opinion.

1. In my opinion the Corporation can and should exclude from consideration the item of Rs. 4,38,000.

Section 140 (a) in my opinion means that the water tax must, as far as is reasonable, be fixed to produce a sum which will be sufficient to meet the annual expenses incident to the provision of a water supply for the City. It is clear that no revenue is received from water rates levied on lands vesting in the Corporation and the sum of Rs. 4,38,000 must be disregarded in estimating the actual receipts which can be set against the water expenditure.

Section 140 and the following Sections deal with the levy or recovery of taxes, and I think very express words would be necessary to establish that the legislature intended the taxing body to recover taxes from itself. The words "buildings and lands in the City" in Section 140 do not necessarily mean "all buildings and lands" and it is clear from Section 141 that they were not intended to have that meaning.

Section 141 provides that the water tax is to be levied *only* in respect of premises

- (a) with a private water supply or capable of getting a private supply, or
- (b) situated in a part of the city in which the Commissioner has given notice that the Corporation can provide all premises with a reasonable supply of water.

* See Record of Proceedings for 1898-99.

OPINION.—*contd.*

The terms of Sub-section (b) are wide enough to embrace Municipal buildings and lands, and, if such buildings or lands were held by some lessee, directly from the Corporation, assessment would be leviable from him in respect of his occupation [see Section 146 (1)]. I do not think however, that so long as such buildings and lands remain in the occupation of the Corporation the assessment would be leviable. As I have said above, I think there is an *a priori* improbability in this theory that the legislature intended the Corporation to tax itself and such taxation would be useless for revenue purposes; it would merely relieve one class of rate payers at the expense of another. I think moreover that the Sections 143, 146 and 148 indicate that the Corporation is intended to be exempt from payment of property taxes. In Section 143 the general tax is made leviable in respect of all buildings and lands but the Corporation property is expressly exempt. This so far as the general tax is concerned puts an end to any question of the liability of the Corporation. Sections 146 and 148 need therefore only be considered with regard to the other property taxes, *i.e.*, water and *halalkhor*. The persons from whom property taxes can be levied are persons occupying immediately from the Government, Corporation or a *Fazendar* [Section 146 (1)] and persons not so occupying. I do not think the Corporation falls under either category. Section 148 shows that the person primarily liable is entitled to credit for the sum leviable from his landlord, except in the case of Government and the Corporation.

This is another indication of the intention to exempt the Corporation from liability.

I understand that the greater part of the sum of Rs. 4,38,000 is attributable to a calculation of the amount of water used in flushing sewers and watering streets. The cost of this water could in no case be estimated as revenue since underground sewers and streets would not be assessable if the water were supplied by an outside Corporation with powers of taxation. As authority for this I may refer to the *Erith* case, 1893 A. C., at page 598, as establishing the non-assessability of underground sewers and Lambeth *i.e.* London County Council, 1897, A. C. page 625 and the *Putney Bridge* case, 7

Opinion—contd.

Q. B. D., 223, as establishing the non-assessability of premises dedicated to the public—A category in which the streets in Bombay City must be included.

2. Whether the estimate of Revenue from water can under the circumstances be fixed at a higher aggregate figure than Rs. 16,24,000.

2. It follows from the above remark that in my opinion this question must be answered in the negative.

3. Whether deficits of previous years amounting, since 1885, to some 35 lakhs of Rupees, can be taken into account and recouped to some extent in subsequent years.

3. In my opinion they cannot be taken into account as they have actually been paid out of the Municipal Fund.

4. Whether in determining the rate on the basis of Revenue and expenses the income for water sold outside the City or within the City, but not for the purposes of or in connection with any particular buildings or lands, should be excluded :

4. I do not think this is necessary since in my opinion the rate may be fixed so as to cover all expenses incident to the provision of a water supply.

And to advise generally.

(Sd.) BASIL SCOTT.

Bombay, 18th February 1901.

Amended on 14th March 1901.

AMENDED OPINION OF MR. INVERARITY TO THE SAME QUERIES AS SUBMITTED TO COUNSEL (MR. SCOTT), RE WATER TAX.

This question raises the point whether under the Municipal Act, buildings and lands belonging to the Municipality are assessable to water tax.

Any lands or buildings that are let are assessable and the tax is payable by the occupier (Section 146) who cannot recover the same from the Municipality (Section 148).

As to lands and buildings in the occupation of the Municipality, I am of opinion that Section 141, clause *b*, would include any such property of the Municipality within the areas affected by clause *b*, but it does not follow that the water tax can be levied, for I find that under Section 146 property taxes can only be levied on (1) the occupier when he holds from Government, the Corporation or a fazindar and in other cases only from the individuals mentioned in 146 (2) *a*, *b* and *c*; *a* and *b* do not apply to the Municipality for if they let the occupier pays and *c* only remains, *viz.*, "a person in whom the right to let the property in question vests."

* See Proceedings of the Standing Committee dated 14th March 1901.

In my opinion the Municipality has not the right to let a great portion of the property vested in them, *e.g.*, the streets, the sewers, and buildings connected with the drainage system. It follows that water-tax cannot be levied from them in respect of such property but only from property in their occupation which they have the right to let.

I therefore think that the Rs. 4,38,000, or at any rate so much thereof as is not applicable to property which the Municipality have a right to let ought not to be taken into account in estimating the water revenue.

Before any property can be rated some person must be found who can be called on to pay the rate in respect of it because the rate is on the person and not on the property, the property being only the standard by which the person is to be rated (see Boyle on rating p. 60). As I have shown above unless you can find a person who fills one of the descriptions given in Section 146 the property cannot be rated. My opinion has been given entirely on the special wording of the Municipal Act, but I may add that according to the English cases where the poor rates are levied from the occupier underground sewers are held not rateable, though above-ground sewer works are rateable, it being held that underground sewers are not capable of beneficial occupation. This practice the House of Lords refused to disturb though they evidently thought that on principle underground sewers ought to be rated. See *London County Council v. Erith, &c., App. Ca.* 1893, p. 562.

Highways also cannot be rated in England as they are not in the exclusive occupation of any one.

2. Under Section 115 no more than Rs. 16,24,000 can be spent for supplying water, for this sum I understand has been adopted by the Corporation and has become a budget grant under Section 130, as no more can be spent, I think the Corporation are not justified in taxing at a rate which will produce a higher revenue except for such additional sum as they estimate will be required to meet possible expenditure in respect of the water supply which might be spent under Section 115, Clause 2.

3. I think they cannot be taken into account. These deficits have been paid, and consequently it is not necessary to raise any monies to pay these expenses.

4. I think such items need not be taken into account, they would no doubt have to be taken into account, if the Municipality were under any duty to treat what I will call their water property as a distinct asset as to which a separate account must be kept to which all receipts and expenditure should be credited and debited, but the Municipal Act does not appear to me to impose any such duty. On the contrary, under Section 111 all monies go to the credit of "the Municipal Fund"

and under Section 118 such monies are directed to be applied in payment of all expenditure under Sections 61, 62 and 63. It therefore seems to me that these monies as well as the water tax itself when paid into the Municipal fund lose their identity and could be applied for other purposes than the water supply of the City. I think money received for water sold as stated is "proceeds of disposal of property by the Corporation" within Section, 111, Clause 1.

Generally. I think that the Corporation can fix on any water tax they think is reasonable with reference to the expenses of providing a water supply for the City. That no Court would interfere with a proper exercise of the discretion given to them and if they *bond fide* came to the conclusion that the expenditure would amount to 20 lacs they could tax so as to raise that amount, and no one would be allowed to say that in his opinion 16 lacs expenditure was all that was required. But if the Corporation adopt the budget estimate of 16 lacs which in effect is expressing their opinion that that is the expenditure required and then proceed to raise a revenue by taxation of 19 lacs, I think they would exceed their powers. I may point out that there is no duty to estimate the expenditure exactly. It would be impossible to do so. Section 132 contemplates less expenditure than the estimated expenditure in which case the balance of money unexpended can either be taken into account in the opening balance of the Municipal fund of the next year or expended on the object originally intended. So that if a balance of revenue raised by water tax remains in hand the Act authorizes it being placed to the Municipal fund generally and it need not be carried over to the next year.

(Sd.) J. D. INVERARITY.

(Amended on 11th March 1901.)

February 7th, 1901.

*

RE TRUST DEED IN RELATION TO THE NUSSERWANJI MANECKJI PETIT PUBLIC HALL.

EX-PARTE.—THE MUNICIPAL CORPORATION RE
TRUST DEED IN RELATION TO THE NUSSER-
WANJI MANECKJI PETIT PUBLIC HALL.

INSTRUCTIONS TO COUNSEL TO ADVISE.

Herewith marked No. 1 is a print of the proceedings of the Municipal Corporation at their Meeting held on the 6th September

* See Proceedings of the Standing Committee dated 14th March 1901.

1894. Counsel will please peruse the portion of these proceedings which refer to the subject matter of the present instructions from page 292 to page 300.

The conditions on which Bai Dinbai, widow and executrix of the late Nusserwanji Maneckji Petit, offered to make over to the Municipal Corporation two sums of Rs. 5,00,000 and Rs. 2,50,000, the former for the erection and establishment of a Public Hall to perpetuate the memory of her late husband, and the latter for the establishment of a Free Library in the same Hall, will be found fully set forth in the two statements which accompanied her letter of 20th January 1894 to the Municipal Commissioner (pp. 294-297). The motion of Mr. P. M. Mehta (p. 298) to the effect that the Corporation, while appreciating the public spirited liberality of the offer, were unable for reasons stated to accept it in the terms in which it was made, was carried at this meeting.

Bai Dinbai then, by a letter to the President of the Corporation, dated 6th November 1894, to some extent modified her conditions in regard to the site for the Hall, and by another letter of the 3rd December 1894 made it clear that she placed before the Corporation two distinct offers, one of Rs. 5 lakhs for the Hall and the other of 2½ lakhs to be added to the 5 lakhs as a further sum for the accommodation and provision of a Free Library, and that it was optional for the Corporation to accept both these offers or the 1st only.

These letters were considered by the Corporation at their meeting of the 3rd December 1894, when a Resolution was passed accepting the offer of 5 lakhs for the building of a Public Hall, provided terms for a site could be arranged with Government, and appointing a Committee for settling the particulars and details in conference with Bai Dinbai (see printed copy of Proceedings marked No. 2).

The matter next came before the Corporation on the 10th August 1896, when the report of the Committee, dated the 20th July 1896, was considered, as also letter from Bai Dinbai, dated the 3rd August 1896, approving of that report, subject to a trifling amendment, and a resolution was passed detailing and formally accepting the terms as thus arranged between Bai Dinbai and the Committee, the Municipal Commissioner being requested to take the necessary measures to carry out that resolution bearing in mind that in no case should the cost of the building and the furnishing of the Hall exceed 5 lakhs (see copy of Proceedings of the Corporation of 10th August 1896 herewith marked No. 3).

On the 6th January 1898 the Corporation referred the plans and estimates for the new Hall (which in the meanwhile had been prepared by the Executive Engineer, Municipality,) to a Committee for report (see print Proceedings No. 4).

On the 14th March 1898 the Corporation resolved that the report of the committee of the Corporation on the question of plans and estimates of the proposed Nusserwanji Maneckji Petit Public Hall be approved subject to such modification in the design estimates as might be necessary to restrict the cost to the 5 lakhs to be given by Bai Dinbai Nusserwanji Maneckji Petit (copy Resolution No. 5).

On the 23rd March 1898 the Standing Committee resolved that a Trust Deed be prepared as soon as possible by the Solicitors for the Municipality on the one part and the Solicitors for Bai Dinbai on the other part, and that it should provide for the deposit in the joint names of Bai Dinbai and the Municipal Commissioner of Rupee Paper or other approved security of the actual value of 5 lakhs.

On the 10th May 1898 the Municipal Solicitors wrote to Bai Dinbai, but owing to that lady's death it was not until the 7th November 1898 that they received a reply from Messrs. Craigie, Lynch and Owen, on behalf of Bai Awabai Framji Petit, the daughter and sole executrix of the will of the late Bai Dinbai (copies of the letter to Bai Dinbai and subsequent correspondence between the respective Solicitors is sent herewith, No. 6).

Messrs. Craigie, Lynch and Owen's letter of the 7th November 1898 was forwarded in due course to the Municipality, and on the 3rd January 1899, the Commissioner addressed them further and they replied on the 11th idem, and on the 22nd February 1899 the Standing Committee approved of the acceptance of the terms stated in the Commissioner's No. 26398, dated the 21st January 1899, and its accompaniments regarding the payment of the 5 lakhs, and on the 18th March 1899 Messrs. Craigie, Lynch and Owen, on behalf of Bai Awabai, consented that the Trust Deed should provide for the payment of the 5 lakhs by the instalments mentioned in their letter to the Municipal Solicitors of the 7th November 1898 upon the certificate of the Municipal Engineer, but that any extra instalment referred to in Messrs. Craigie, Lynch and Owen's letter of the 11th January should only be paid after Bai Awabai's Engineer had certified that the state of the building required that such extra instalment be paid (see accompaniment No. 7).

Messrs. Craigie, Lynch and Owen further stated that their client wished that the Trust Deed should provide that Rs. 25,000 last instalment should not be payable until the building had been certified by the Municipal Engineer to have been completed.

These terms were thus finally arranged and eventually a draft Trust Deed was prepared and forwarded by the Municipal Solicitors on the 14th August 1899 to Messrs. Craigie, Lynch and Owen for approval on behalf of Bai Awabai Framji Petit. This draft is sent herewith marked No. 8.

Counsel's advice is now sought upon a question which has arisen in connection with condition 4 at page 10 of this draft.

This clause, it will be observed as originally drafted in black ink, is a verbatim copy of clause 5 of the report of the sub-committee of the Corporation appointed to confer and settle details with the late Bai Dinbai (see printed proceedings No. 3 p. 250), and that report (as will be seen from page 251) was approved by Bai Dinbai in a letter to the President of the 3rd August 1896, and on the 10th August 1896, the Corporation, by their Resolution of that date, in which the terms of the sub-committee's report are fully set out (see p. 252, para. 5), accepted this condition in that form.

Bai Awabai, although her attention has been specially drawn to the facts and to Bai Dinbai's letter of 3rd August 1896, insists on the alteration of this clause as shown in red ink, and the Corporation objects to this. We will now refer Counsel to the correspondence which has taken place on the subject (see No. 9).

On the 19th October 1899, Messrs. Craigie, Lynch and Owen returned the draft with their red ink alterations, and stated with reference to these that most of these alterations are not important and we hope you will "see your way to accept them."

This letter together with the draft deed were then forwarded by the Municipal Solicitor for the Commissioner's instructions as to the alterations in red ink.

The Municipal Solicitors were instructed to object to some of the alterations, but that others need not be objected to, while as to others again they were instructed to accept them subject to a reference which might possibly have to be made to the Standing Committee. Amongst the alterations which the Solicitors were instructed need not be objected were the red ink alterations in clause 4, p. 10.

On the 17th November 1899, the draft was accordingly returned re-approved by the Municipal Solicitors as altered in green ink and subject to the marginal notes in green ink of *that* date, the alteration in red ink in Condition 4 being in accordance with instructions as abovementioned practically accepted at the time; thus it is that the green ink marginal note opposite this clause bears a later date.

On the 27th November 1899, Messrs. Craigie, Lynch and Owen sent back the draft, which they stated was approved on behalf of the donor with a few unimportant alterations to which they referred in their letter, and as regards the marginal notes at pp. 9 and 10 they suggested the advisability of laying the draft before the Corporation, or the Standing Committee after it was finally approved by the parties.

A copy of their letter was then sent by the Municipal Solicitors for instructions along with the draft and on the 21st December they received it back with a copy of a resolution of the Corporation, No. 2867, dated the 18th of December 1899. This resolu-

tion, it will be observed, adopts the draft subject to two changes :—

The 1st has reference to Condition 1 and the alterations which had been made therein, and need not be further noticed, as the point discussed has, it will presently be seen, since been arranged, the donor's wishes being acceded to.

The 2nd change in the draft which the Corporation Resolution called for was the omission of the red ink alterations in Condition 4 and its adoption in the form in which it was originally drafted.

The correspondence on the subject will be found in No. 9, and the result of it is that Bai Awabai, on the other hand, insists on the red ink alterations in Clause 4, and the matter is thus at the present moment at a dead-lock, as Bai Awabai will not pay the money till the Deed is completed, and she will not accept the Deed otherwise than in the form she insists on. The Resolution of the Corporation No. 9176, dated the 12th November 1900, at which Bai Awabai's final letter of the 2nd October 1900 was considered, shews that the Corporation desire to be advised upon their legal position under the circumstances above stated.

We have already drawn particular attention to the distinct approval by Bai Dinbai of the condition as originally drafted and its formal acceptance by the Corporation, but going back even to an earlier time it will be evident that Condition 4 of the draft as originally prepared is in strict accord with the original conditions which Bai Dinbai herself in the first instance stipulated for, in so far as it prescribes that the Hall is to be available for all public meetings convened for any lawful purpose (see 6th condition on p. 295 of No. 1). This is now the only point of difference between the parties, and the question seems to be whether Bai Awabai, acting as she is as the executrix of the late Bai Dinbai, is not bound by the condition in the form in which it was deliberately and formally accepted by the latter and accepted as the Corporation Resolution of the 23rd April 1900 shews "after careful discussion and deliberation particularly of the proposal now set forth by Bai Awabai and which thereupon she (Bai Dinbai) gave up."

The Corporation, as further appears from the last mentioned resolution, have purchased from Government the land required for the hall on the faith of Bai Dinbai's acceptance of the terms. The actual deed has not, we believe, been executed, but the terms are arranged with Government.

Counsel is requested to advise the Corporation as to their legal position and rights in the matter, and whether in the event of Counsel considering the Corporation are entitled to have the Condition 4 of the Trust Deed in the form originally drafted any steps can be taken to compel Bai Awabai to accept it in that form or to carry out the grant.

And to advise generally.

OPINION.

This does not appear to be a case of a gift pure and simple. A gift is a transfer of property without consideration. The arrangement with Dinbai as evidenced by the Committee's report and Dinbai's letter of the 3rd August 1896 appears to me to amount to an agreement for good consideration. Dinbai promises to pay 5 lakhs of Rupees on condition of the Corporation agreeing to undertake certain obligations, *e.g.*, the providing a site, the maintenance of the hall, &c. I therefore think that when Dinbai died, the Corporation could have enforced the payment of the 5 lakhs of rupees by her estate.

The draft Trust Deed and subsequent correspondence go rather on the lines that there was an incomplete gift which the intended donor's executrix was willing to complete; in fact she is styled the donor in the draft. If this latter view was correct, the legal position of the Corporation would be that the gift is not one that they would even now enforce, if the donor chose to withdraw, but I think the correct view is that there is an agreement binding on the donor's estate which could be enforced by suit. It follows that Awabai cannot insist on the alteration she wishes to make in the agreement arrived at with Dinbai as evidenced in para. 5 of the Committee's report. This is all I am asked to advise on, but I cannot refrain from adding that the point in dispute appears not to be of sufficient importance for the Corporation to insist on their strict rights. It would be too ridiculous if the matter was to be thrown into litigation over such a point.

J. D. INVERARITY.

January 21st, 1901.

RE REVISION OF THE MUNICIPAL ACT.

30, ESTPLANADE ROAD,
BOMBAY, 8th June 1900.

TO THE MUNICIPAL COMMISSIONER.

SIR,—We have the honour to forward herewith 10 prints of the Act as now revised by us.

2. We have had explanatory notes pasted in their appropriate places opposite the different parts of the proposed amendments to which they refer, and these, we think, will be found of considerable assistance when considering the draft, but while they pro-

bably refer more or less briefly to the more important points, it will be understood they are by no means exhaustive. To have attempted to discuss in detail all the alterations (which run through almost every section) would not, we think, have been attended with any advantage commensurate with the additional labour and expense which it would have involved.

3. Again it would have been extremely difficult and indeed premature, until the amendments have been fully considered by yourself and the Heads of Departments, to attempt to indicate alterations and additions by italicised printing. It will therefore of course be necessary for the several Heads of Departments to compare each section carefully with corresponding parts of the present Act, and that there may be no difficulty about this, we have adhered as closely as possible to the numbering of the Sections in the present Act, and where new sections have been introduced or existing sections have been brought into new places, we have given them the number of the Sections of the Act immediately preceding, but adding the letters A, B, C, &c., on the other hand, where sections have been omitted or transferred to other places, we have dropped their numbers.

4. It will no doubt be convenient eventually to have the whole compilation together with the existing Act printed in three columns containing (1) the provisions of the existing Act, (2) those of the draft amendments, and (3) our explanatory notes side by side; but as there will no doubt be many alterations and very probably additions suggested whilst the matter is being considered by Heads of Departments, it would be premature to do this at present.

5. Some of our verbal alterations may at first sight appear to be fanciful. Our object, however, has been to endeavour to be consistent in using the same words and terms of expression when it has been intended in different parts of the Act to express the same meaning. In this it will no doubt be found that we have only partially succeeded.

6. The printing of the draft is not so satisfactory as we should have wished. This is due to the fact that it had to be done piecemeal and that after parts had already been printed the necessity for alterations and amendments in other parts on which we were working often necessitated numerous alterations in the former. Notably this was the case in regard to the adoption of the definition of "a property" which now almost throughout the draft takes the place of the very unsatisfactory and ambiguous expression "premises."

7. The earlier part of the Act (upto Section 68) is that which will be found to have undergone least change; the definitions of course are only tentative and will be properly arranged when finally determined on; there were no suggestions for substantial alteration of the provisions in regard to the Municipal constitution, and though we found it desirable to rearrange and alter the

form of many of the sections and sub-sections and redraft some of them, only point in Chapter II to which we need specially refer is the new section 31 A, which, with its corresponding alterations in other sections noted against it, goes as far as we are at present disposed to advise in the direction of dealing with the personation which has been so common at the elections. This section, however, and the fact that all Municipal servants are public servants (see our note to Section 521 of the draft) should enable most offences at elections to be dealt with.

8. The contract provisions in the draft (sections 69 to 73 of the Act) are we think much improved in arrangement and form, while in substance they embody an amendment which experience has shown was very desirable.

9. In Chapter IV the alterations are chiefly in matters of form and arrangement, with some few new provisions or omissions, which are noted.

10. Chapter V calls for no special remark beyond what will be found noted—sections 93 to 105 have been left over, for the reasons stated—but any alteration of these which may hereafter be found to be necessary will we think be purely formal.

11. Chapter VI contains important new provisions in regard to Municipal Securities held on joint account.

12. Chapter VII we have left over for the reasons stated. If amendments are found necessary they will not hinge upon or necessitate alterations in other parts of the draft.

13. Chapter VIII (Municipal Taxation), besides numerous alterations in form, will be found to comprise several more or less important changes (and as we believe improvements) in substance; probably the most important of these is the introduction of provisions to enable the charge on properties for property taxes which the Act already creates to be enforced in a summary way without recourse in each case to the costly proceedings in the High Court which are at present the only way of making that charge actually productive. We do not doubt that these amendments, if adopted, will very greatly facilitate the recovery of the Municipal Revenue, and we do not for a moment believe that in practice it will ever really be necessary to resort to a sale. The mere fact that the power exists and can be and if necessary will be exercised will suffice.

14. Chapter IX (Drainage) contains many alterations in drafting and form, and as will be seen from a glance at the notes embodies some amendments of great importance.

15. Chapter X.—The alterations in this Chapter are for the most part in matters of form and drafting.

16. One of the most important of all the amendments suggested is in Chapter XI (Regulations of Streets). We refer to the proposed abolition of the distinction which exists in the present Act between "Public Streets" and "Private Streets"

and the proposed vesting of all streets in the Municipality. We would refer you to our notes against Section 289. Other amendments of considerable importance in connection with streets are also embodied.

17. In Chapter XII (Building Regulations) we have embodied many changes in form and arrangement and some in substance. All will we hope be improvements. In regard, however, to detailed regulations as to height of buildings, their ventilation, &c., &c., we have felt constrained, for reasons noted, to recommend that these be dealt with in a series of more systematic and perhaps more up-to-date by-laws than we have at present. We understand this is a subject which is now engaging the attention of yourself and of the Executive Engineer that matters to which we refer are in our opinion clearly more appropriate to by-laws than to the Act itself. In particular we have made much alteration in Section 348 which as it now stands in the Act is far from satisfactory.

18. Chapters XIII and XIV call for no special remark; indeed as regards the latter we have not thought it worth while to have it reprinted.

19. Chapter XV (Sanitary Provisions) contains important alterations both in form and substance. It embodies the amendments of the Act contained in the "Bombay Prevention of Adulteration Act, 1899" as well as (so far as seems desirable) such of the provisions of that Act as under its terms can be, but have not yet been, brought into force in Bombay.

20. Chapter XVI (Vital Statistics) contains important alterations on the lines of those proposed in 1899, but in an improved form. (See our note at section 442.)

21. In Chapter XVII some important additions have been made in the powers of making by-laws.

22. The additions suggested in Chapter XVIII—Penalties—are not very extensive but are of some importance.

23. The amendments proposed in Chapter XIX, XX and XXI sufficiently speak for themselves and are more or less incidental.

24. The only Schedules we have had reprinted are schedule R of the Act (which we have called Schedule A, as it is, in our draft, brought into operation by S. 2A) and Schedule P.

We have carefully altered and adapted Schedule R to meet the conditions required to be provided for during the interregnum there must be between the passing of the new Act and the time when it comes fully into operation, namely, the time when the first Corporation to be constituted under the new Act, is completed.

Schedule P is designed to harmonise with the provisions proposed in regard to vital statistics.

25. We return herewith the various compilations and documents noted in the list at foot, which we have from time to time received in connection with the amendment of the Act.

26. We must confess that when we were asked to undertake the work of preparing the amendments, we did not fully appreciate the magnitude of the task that was before us ; it was, as it turned out, nothing short of a revision of the Act, from beginning to end, involving very extensive re-drafting and amendments with very numerous additions to be worked in. When we realized this it became evident that having regard to the exigencies of our business it would be absolutely impossible for Mr. Crawford to carry out the work without efficient assistance, he accordingly, as you are aware, placed the work of preliminary drafting in the hands of Mr. Jardine, but it soon became manifest that, while the former could not afford the time to do all the work himself, the latter had not, on the papers which were before us, sufficient material, nor had he indeed the experience of the practical working of the Act, and of the requirements to be provided for, which were essentially, necessary. To supplement this latter deficiency by way of satisfactory written instructions would have meant a vast amount of labour which even then could not possibly have sufficed, so in the result Mr. Jardine and Mr. Crawford had to work to a great extent together, and in this way the work was got through in much shorter time than it would have been in the hands of one person alone. We regret that owing to the other business arrangements of both it has only been possible to make much satisfactory progress during vacations or times when we have been able to devote ourselves exclusively to the work, but this could not under the circumstances be helped.

27. Mr. Jardine's fees in terms of a special arrangement come to with him (based on the time he has been engaged) amount to Rs. 11,280. Our charges must also depend on the time Mr. Crawford has had to devote to the work ; he has been exclusively engaged on it for 68 days which we charge for at the rate of Rs. 200 a day (the rate at which Mr. Crawford informed Mr. Snow he would have to charge). In addition to this we have incurred actual expenses on printing, &c., to the aggregate amount of Rs. 1,253-3-0, thus making a total of Rs. 26,133-3-0.

We enclose a formal statement of the charges and would add that we treat them as inclusive of correspondence, attendance and innumerable odd hours and half hours which have been given up by Mr. Crawford to this work outside the days charged for, and also as inclusive of clerk's work of which in one way and another there has been a great deal.

28. We understand a grant of Rs. 10,000 has been made towards these costs, and we shall feel obliged if you will kindly favour us with a Cheque for that amount as early as convenient and ask the Corporation to sanction a special grant for the balance.

We have, etc.,

CRAWFORD, BROWN & Co.

GAS ILLUMINATIONS.

BOMBAY, 22nd July 1896.

To P. C. H. SNOW, Esq., Municipal Commissioner.

SIR,—We have the honor to return the accompanying papers which were forwarded to us for attention under your No. 6743, dated the 11th instant, the Executive Engineer having suggested (in para. 1 of his No. 4766, dated 10th instant) that a form of application should be prepared to be submitted by the Gas Company for permission for illuminations on the basis of the Corporation's Resolution No. 2955 of the 25th ultimo.

The resolution of the Corporation, as we understand it, proposes that, instead of the general indemnity, of which we sent a form with our letter of the 15th May 1895, there shall in each individual case be embodied in the permit the condition as to the Company being liable for damage by fire.

Whatever plan is adopted, the object to be attained in each case presumably is, that the whole responsibility shall fall on the Gas Company, and that the Municipality shall be indemnified against any consequences for this purpose. A contract or instrument of indemnity is required, and, though such a contract may be perfectly validly embodied (as we understand) is proposed in the application and permit, we are inclined to think that in each separate transaction the application will have to be stamped as an indemnity bond—that is to say, with a stamp of Rupees 5, unless there is also such a general indemnity agreement as we suggested.

Our proposal was, as you know, that a *general* agreement of indemnity should be executed on a five-rupees stamp, and that this should be merely referred to in each individual application, a course which would not, we think, have necessitated a stamp on the individual applications, but if in each case the application is to embody a separate contract of indemnity, we do not see how this stamp duty can be avoided.

In accordance, however, with the instructions received, we have prepared, and send herewith a form of application prepared, so as to contain in itself the terms of the indemnity and to be independent of any other document.—We have, &c.,

CRAWFORD, BURDER & Co.

*Ex parte the Municipal Corporation of the City of Bombay
re Question of Liability of the Gas Company resulting
from Gas Illuminations.*

CASE FOR THE OPINION OF COUNSEL.

The following resolution has been submitted to us by the Municipality, viz:—

“That the joint opinion of Counsel be taken as to the liability, if any, the Corporation incur for damage or loss to life or proper-

ty arising or resulting from gas illuminations put up by the Gas Company under a permit issued by the Municipal Commissioner."

It appears that it has been the custom since the passing of the Municipal Act to grant permits in the form sent herewith, marked A, to the Gas Company to erect arches over streets and by the side of streets on the occasions of marriage and other ceremonies when illuminations are required, this being done under section 313 of the Act.

Hitherto no damage or accident has occurred by reason of such permit being given to the Company, but in the month of February 1895 a notice was received by the Municipal Commissioner from one of the inhabitants of a street, in which permission had been given, informing the Commissioner that he would be held liable for any damage that might occur by reason of such permit being given. This notice for the first time raised the question in the mind of the Municipal Commissioner as to the extent of the liability that the Corporation might be incurring by granting these permits, and the matter was referred to us for our opinion, and we then advised that, as under section 289 of the Act public streets are vested in the Corporation and expressly placed under the control of the Commissioner, if in the exercise of that control he permits lights to be put up which, if insufficiently protected or carelessly used, might become a source of danger, he undertook, we thought, for the Municipality the same responsibility for their safe conduct and proper use as attaches to a private individual who permits fire or any other dangerous thing to be kept or used on his premises, and the same responsibility, we thought, would attach to the case of private streets, though in this case the Commissioner would have no power to give or withhold permission in respect of lights to be attached or suspended from a greater height than 12 feet; and we then suggested that permission should only be accorded on the terms of the Gas Company accepting all responsibility by agreeing to indemnify the Municipality in respect of it.

Our opinion applied only to the erection or fixing of lights upon or over streets as, of course, the Commissioner has no power to give permission or prevent the erection of lights alongside streets on or over private property.

Upon this opinion being received, notice was given to the Gas Company that no further permits would be given unless the Gas Company were prepared to accept all responsibility and agree to indemnify the Municipality in respect of any claim which might be set up by any person for loss or damage to life or property owing to the lights, and the Manager of the Gas Company in reply on the 29th of April 1895 stated that it had been the custom for the last thirty years to erect these lights on the occasions of weddings and rejoicings and no claim had ever been made, the Gas Company having hitherto "tacitly accepted all responsibility, and we now at your request do so in writing."

Upon this letter being referred to us, we thought it desirable that there should be a more formal and explicit document, and we drafted a short general agreement (copy herewith marked B) which we thought suitable to be signed in each individual case together with a form of permit which we suggested. These documents were in due course submitted to the Gas Company, who suggested that it would be sufficient if after the words "the erection of the necessary fittings and gas lights upon or over the street" the following words were added "provided that the Company shall not be relieved by reason of the permits of the Municipality from any liability otherwise falling upon them at common law." We, however, were of opinion that this suggestion could not be accepted as a claim established against the Municipality, might, or might not, give them a sufficient ground for seeking to throw the burden on the Gas Company, but assuming it did, it was evident that the liability falling on the Gas Company at common law might fall far short of the liability and expenses the Municipality might actually be called upon to meet. We are not in a position to point out the actual risk that is involved in permitting these illuminations, but it is conceivable that many accidents might happen where temporary erections of this nature are allowed over and along a street and where, moreover an explosive and inflammable substance like gas is used in great quantities, and that there is some risk is apparent from the fact that the Gas Company have a fitter present the whole time at all illuminations as a protection against accidents.

The Gas Company having refused to give the indemnity asked for, a Sub-Committee of the Corporation was appointed to consider the matter, and, upon their recommendation, a further reference was made to us as to whether the admission of liability in the Gas Company's letter of the 29th of April 1895 was sufficient to render the Company liable, but we felt that, having regard to the unwillingness of the Company to give a practical legal expression to their acceptance of responsibility, together with the correspondence that had taken place with them since the date of that letter, indicated that, on further consideration, they had come to the conclusion that the risk was one of a more serious importance than they supposed, we were therefore of opinion that a proper indemnity should be insisted upon. As matters then stood, the Municipality might, according to our views, be held responsible for damage, while the Gas Company and the persons on whose behalf the illuminations were undertaken alone derived any tangible advantage from them—the former by an increase to their revenue and the latter by having their houses illuminated. The risk, whatever it might be, under these circumstances it appeared to us should be borne by the Company or their customers, and, so far as the Municipality were concerned, it was the Gas Company they should look to for indemnity, leaving the Company in their turn, if they thought necessary to protect

themselves by obtaining a covering guarantee or indemnity from the persons for whom the illuminations were provided.

The Gas Company were again informed that the Commissioner must insist upon their giving the indemnity demanded, and in reply the Company informed the Commissioner that, if the decision was adhered to, they would cease supplying gas illuminations to the public, except in a few places where premises do not abut on the public road, and stated that, as many native house-owners now insured, if a house was burnt down by reason of the illuminations, the Insurance Company would pay, and, if a neighbouring house was burnt down, the owner would have no claim against the owner whose house first caught fire, his remedy being to insure and, if they failed to do so, they must take the consequences.

The matter was then brought before the Corporation who resolved that "it was advisable that in future such permits for gas illuminations should be issued to the Gas Company alone, and that a clause be inserted therein that all liability for damage or loss by fire arising from such illuminations should attach to the Gas Company."

This resolution amounted to a proposal that, instead of a general indemnity as suggested by us, there should in each individual case be embodied in the permit the condition as to the Company being liable for damages. We pointed out that this would necessitate a stamp of Rs. 5 being affixed to each permit as an Indemnity Bond, whereas, if one general indemnity agreement had been prepared as suggested by us, such agreement could be referred to in each case. We, however, prepared a draft form of application embodying the conditions which might be accepted by the Municipality, and, in accordance with the resolution, a copy of this application is sent herewith marked C.

A copy of this together with the resolution of the Corporation was forwarded to the Gas Company, who refused to accept it and proposed an alternative, one copy of which is sent herewith and marked D.

The matter then reached a dead lock; either the permits must be given as heretofore or the Gas Company would discontinue the illuminations, and, pending the opinion of Counsel, permits have been given in the form used hitherto.

We have thought it better to give a sketch of the history of the matter in order that Counsel may understand the position taken up by the Gas Company as well as the Corporation.

As we have already advised we can conceive of cases in which the liability might be established, and we can conceive of others in which claims might be strenuously pressed against the Corporation, but successfully resisted after more or less expensive litigation, the costs of which might or might not be recoverable partly (but certainly would not be recoverable wholly) from the persons making the claims, and it is against such claims that we consider the Municipality are entitled to look for an indemnity.

Counsel is, therefore, requested to advise :—

Queries.

(1) Whether the Corporation incur any, and, if so, what, liability for damage or loss to life or property arising or resulting from Gas illuminations put up by the Gas Company under a permit issued by the Municipal Commissioner.

(2) If they incur any liability, in what manner they can best protect themselves.

And to advise generally.

16th December 1896.

Opinion.

(1) We think that the Corporation and the Commissioner, by giving permits under section 313 for gas illuminations, are in the position of persons, who expose others, and the property of others, to exceptional risk, and are therefore liable, as insurers of such others, against consequent harm, not due to a cause beyond human foresight and control (Pollock, Tort Edition, 1895, p. 438), and this liability exists, although there may be no negligence on the part of the Corporation or of the Commissioner, and although the damage may have been caused by disregard or disobedience of the conditions upon which the permit has been granted. See *Black versus Christchurch, &c.*, Appeal Cases (1894), p. 48. In fact the liability extends, upon the authorities, to any damage arising naturally out of the grant of the permit and which reasonable care would have prevented.

(2) We think that the agreement and permit (Exhibit B to these instructions) adequately protect the Corporation and Commissioner, and we do not think that any of the other suggested documents do so. There can be no reason why the Corporation or Commissioner should incur any liability whatsoever in regard to illuminations of public or private street for the gratification of individual, and the Gas Company can, in each case, protect itself, by agreement with the individual who is employing them.

BASIL LANG.
JOHN MACPHERSON.

RE THE GRANTING OF LEAVE TO MUNICIPAL OFFICERS AND EXTENT OF SUCH LEAVE.

BOMBAY, 6th May 1890.

TO THE MUNICIPAL COMMISSIONER.

SIR,—We have the honour to inform you that we have considered the application for leave made by Mr. Brunton, and the minute of the Municipal Commissioner upon it, together with the

resolution of the Standing Committee of the 30th of April last, and are of opinion that the Standing Committee have power to sanction the special leave and allowance applied for, for the following reasons :—

Section 84 of the Act gives the Commissioner power to grant leave of absence, subject to the regulations at the time being in force under section 81, to any Municipal officer or servant, the power of appointing whom is vested in him, and by section 81 the Standing Committee shall from time to time frame regulations in consonance with any resolution that may be passed by the Corporation *inter alia* regulating the grant of leave to Municipal officers and servants and authorizing the payment of allowances to the said municipal officers and servants or to *certain of them* whilst absent on leave.

No regulations appear to have been framed under this section, and therefore the by-laws framed under section 267 of the Bombay Municipal Act, 1872, confirmed by the Municipal Corporation on the 10th of May 1878, and by Government Resolution No. 733 of the 4th of June 1878, are, under section 2 of the present Act, still in force. If therefore, the leave applied for was leave contemplated by the Uncovenanted Service Rules of Government, the allowance provided by those rules only could be sanctioned.

The application made by Mr. Brunton, however, is for extraordinary leave for 6 months, on full pay, under special circumstances, and such leave, not being contemplated by the rules of the Uncovenanted Service Rules of Government, does not, in our opinion, come under the powers given to the Commissioner under section 84. The Standing Committee, however, if they are of opinion that Mr. Brunton has made out a good case for the leave asked for, can, under section 81b, grant the leave applied for, and authorize the payment of a special allowance to him subject to the same being confirmed by the Corporation. The fact that the Municipal Commissioner has power to grant certain leave within specified limits and at fixed allowances, does not, in our opinion, deprive the Standing Committee of the power given to them under section 81, of from time to time regulating the grant of leave and authorizing payment of allowances to Municipal Officers and servants or *certain of them*.

For the reasons above stated, we consider the Standing Committee have power to pass a resolution to the following effect, subject to confirmation as before stated.

Resolved : " That, regarding the application of Mr. Brunton for special leave for 6 months on full pay, having regard to the facts stated in the application, the same be granted in substitution for such portion of his furlough as would be equivalent at the full rate of furlough pay to the amount of leave now applied for and as a special case."—We have, &c., CRAWFORD, BURDER & Co.

(Note.—The leave was granted by the Corporation.)

PENSION REGULATIONS—SOLICITORS OPINION ON THE SUBJECT OF WITHDRAWAL OF RESIGNATION BY Mr. RIENZI WALTON.

BOMBAY, 17th April 1893.

To H.A. ACWORTH, Esq.,

Municipal Commissioner.

SIR,—With reference to recent interview which Mr. Crawford had with you when you desired us to take Counsel's opinion on the question of the Pension Regulations as bearing upon Mr. Walton's case, we have the honor to forward herewith copy of a case which we submitted to Mr. Inverarity and of his opinion, from which you will observe that he agrees with us in thinking that retrospective effect cannot be given to the new regulations and that any special regulation of the kind proposed would be *ultra vires*, but that he does not see any reason why the Municipality should not allow Mr. Walton to withdraw his resignation and cancel their acceptance of it, so as to enable him now to elect under the new rules and obtain his pension under them.—We have, &c., CRAWFORD, BURDER & Co.

1. Whether under the circumstances stated Mr. Walton's pension rights must be governed by the old rules or by the new regulations and whether the latter are capable of retrospective application?

2. Whether such a special regulation as has been suggested (*see annexed draft*) would, if framed by the Standing Committee and duly confirmed, be *intra vires* and valid?

3. If not, whether Counsel can suggest any other means by which Mr. Walton can now be legally placed upon the same footing as regards pension as if he had remained in the Municipal service until the new regulations came in force and to advise generally?

1. I am of opinion that, as matters stand, Mr. Walton has no legal right to pension under the new rules. Nor do I think that the Municipality can give retrospective effect to those rules or have any power to frame a rule to give the benefit of the new rules to Mr. Walton.

2. I think it would be *ultra vires*.

3. I don't see any reason why the Municipality should not allow Mr. Walton to withdraw his resignation of his position as a Municipal servant and cancel their acceptance of it. Mr. Walton would then be able to elect under the new rules and send in his resignation.

It may be worth while to look at Mr. Walton's letter of resignation and see if it is a resignation of his post of Executive Engineer or of his post as a Municipal servant. If the latter, it might, by consent of the Corporation, be treated as a resignation of the post of Executive Engineer and withdrawn as to the latter.

If this is not done, I see no way of giving Mr. Walton the benefit of the new pension rules short of an Act of the legislature empowering the Corporation to give retired servants increased pensions.

J. D. INVERARITY.

April 17th 1893.

18th April 1893.

H. A. ACWORTH, Esq.,

Municipal Commissioner.

SIR,—With reference to your No. 1134, dated this day, (herewith returned), we have the honour to state that we understand Mr. Inverarity's suggestion in reply to query 3 of the accompanying case to be that Mr. Walton's resignation might be treated as a resignation merely of his post of Executive Engineer, but that he might be treated as continuing in municipal service without pay until such time as a fresh application can be received for permission to retire from that service under the new regulations; in other words, if (as presumably was the case) Mr. Walton's resignation was in terms a resignation of his position as a Municipal servant, then that such resignation and its acceptance might respectively, by consent of the Corporation, be allowed to be withdrawn and treated as cancelled *except* in so far as the resignation of the appointment of Executive Engineer is concerned and that Mr. Walton might be permitted to send in a fresh application to retire from municipal service.

This would, of course, be at the best only a device by which it might be legally possible for the Corporation (if under the circumstances they desire to do so) to enable Mr. Walton to have the benefit of the new pension regulations.—We have, &c.,
CRAWFORD, BURDER & Co.

Exparte.—The Municipality.

RE GENERAL CONDITION TO BE PRESCRIBED
BY THE STANDING COMMITTEE IN
RESPECT OF DRAWBACKS.

Counsel's attention is particularly drawn to section 158 of the City of Bombay Municipal Act, 1888, which provides, sub-section (1), that in the case of a building or land "let to two or more persons holding in severalty" the Commissioner may, for assessment purposes, "either treat the whole thereof as one property or with the written consent of the owner of such building or land treat each several holding therein or any two or more of such several holdings together, or each floor or flat as a separate property," and by sub-section (2) further provides that "when the Commissioner has determined to treat all the several

holdings comprised within any one building or land under this section as one property, he may, subject to any general conditions which may from time to time be prescribed by the Standing Committee in this behalf at any time not later than seven days before the first day of any half-year for which an instalment of general tax will be leviable in respect of the said property, sanction a drawback of one-fifth part of the general tax so leviable."

The High Court, as Counsel is no doubt aware, upon a reference from the Chief Judge of the Small Cause Court, in the case of Goverdhandas Goculdas Tezpal, has held that "may" in sub-section (2) of this section must be read as "shall" (see copy notes of this decision sent herewith).

The position of matters, therefore, seems to be this: Every property which fulfils the conditions of sub-section (1), that is to say, which "is let to two or more persons holding in severalty," must be treated, for assessment purposes, as one property, unless the owner consents in writing to the several holdings, or some of them, being treated as separate properties, and in respect of every such property which is treated as one, the Commissioner is obliged, "subject to any general conditions which may from time to time be prescribed by the Standing Committee in this behalf," to sanction a drawback of one-fifth of the general tax leviable thereon.

The question has now arisen whether, by the general conditions to be from time to time prescribed by the Standing Committee as contemplated in this section, they (the Standing Committee) have the power to prescribe certain classes of cases in which drawback is to be sanctioned, and limit the right to claim such drawback to cases falling within those classes. Besides, and independently of, the provision for drawback, the Act, it will be seen, contains (sections 174 to 179) provisions for refund of a proportion of certain of the taxes in respect of vacancies, according to the duration of such vacancies, but stipulates (section 178) that "no refund of general tax shall be claimable in any case in which the Commissioner has sanctioned a drawback under sub-section (2) of section 158."

The provisions above quoted, in regard to properties held in severalty, differ somewhat from those in the former Municipal Acts (the Acts of 1872 and 1878). By section 76, clause 1, of these last mentioned Acts, it was provided that—"In the case of houses or buildings let in flats, or sets of apartments so constructed as to form distinct dwelling places and let as separate tenements, it shall be lawful for the Municipal Commissioner to treat such flats or sets of apartments as separate property for the purpose of the said rates, provided that if any portion of such flat or set of apartments is occupied, the said rates shall be leviable on the valuation of the whole tenement."

As to these cases a right to refund for vacancy was given by a subsequent section of the same Acts (section 82).

By clause 2 of section 76 it was enacted that, "In the case of any chawl or building let out for hire in single rooms, either as lodgings or godowns for the storage of goods, the said rates shall be levied on the annual value of each floor, and the landlord of any such chawl or building shall, if he apply to the Commissioner for such remission on account of the half-year then commencing, at any time within fourteen days after the first day of January or the first day of July, and furnish full particulars of the situation of such chawl or building, and of the number of the rooms and godowns therein, be entitled to a remission of one-fifth part of the consolidated rate leviable thereon under the provisions of section sixty-nine of this Act. Provided that no landlord of any chawl or building shall be entitled to such remission for any floor on which any trade or manufacture is carried on or any goods sold."

Thus by the former Act itself the right to drawback, or "remission" as it is there called, was limited to a particular class of properties, namely, chawls or buildings let out for hire in single rooms either as lodgings or godowns for the storage of goods, and no power was given to any Municipal authorities to prescribe conditions. Whereas from the present Act, as we have seen, this limitation of the right was omitted, but a power to prescribe general conditions was reserved to the Standing Committee and the right of the Commissioner to sanction drawback was made subject to such general conditions when prescribed.

On the 17th December 1890, the Standing Committee, by their resolution of that date, purported to prescribe certain general conditions, as contemplated by section 158 (2) of the present Act (see copy resolution sent herewith).

By this resolution they directed that drawback should be granted—(1) "in every case in which it would have been allowed under the Acts of 1872 and 1878 [section 76 (2)]"; and (2) "in every case in which the property concerned has remained generally, wholly or partially, vacant for more than thirty and less than sixty days"; and they further provided that "all claims for drawback must be submitted not less than thirty days previous to the half-year to which the claim relates."

By the 2nd clause the Standing Committee intended to extend the right to certain cases in which it would not have accrued under the old Acts, but they did also undoubtedly *intend* to limit it to the classes of cases mentioned in their resolution. Inasmuch, however, as this limit was not expressly provided, it was doubted whether the general conditions could have that effect, and they were consequently revised and again placed before the Standing Committee recently for reconsideration (see copy revised general conditions herewith). In effect these revised conditions differ very little from the former ones except in so far as they purport in express terms to the right to draw back, to the classes of cases mentioned in them.

The question has now been raised in the Standing Committee as to whether they have power at all by the general conditions contemplated by section 158 (2) to limit in any way the right to drawback of one-fifth of general tax, which (apart from any such general conditions) would, as we have seen, apparently exist in respect of *every* property "let to two or more persons holding in severalty."

It is contended, on the one hand, that it could never have been intended that the Standing Committee should have the power to cut down the right which the Act itself confers upon every owner of property let to two or more persons holding in severalty; that if it were otherwise they might render the provisions of the Act in that respect nugatory; that the very fact of the omission from the present Act of the express limit of that right to a specified class of cases, shows that the right was intended in the present Act to be unlimited; that the general conditions contemplated were merely for the purpose of regulating (as for instance, by prescribing the time within which application should be made to the Commissioner to sanction the drawback), and not for the purpose of limiting the right; and that even if the intention was to reserve a power of limitation to the Standing Committee, the Act has failed to give effect to it.

On the other hand, it is said that there can be no reason to suppose that the intention was to introduce into the present Act such a radical change as the extension, without any limitation whatever, of the right to drawback, to the enormous proportion of the property in Bombay which fall within the description of properties "let to two or more persons holding in severalty;" that to do so would be tantamount to giving up one-fifth of the general tax leviable on the very large majority of properties so let in Bombay, without (as to very many of them) any adequate reason for doing so, and would thus throw on the small minority of properties not so let, an undue proportion of the burden of the tax; that the intention was merely to get rid of the hard-and-fast line prescribed by the old Acts, and enable the Standing Committee to exercise a discretion from time to time, as experience might dictate, so as to include any classes of cases to which it might appear to them that the principle might properly be applied; and that the Act itself limits the right by coupling it as it does with the provision that it should be *subject* to such general conditions as the Standing Committee might from time to time prescribe in that behalf.

It is urged in support of the view that the Standing Committee cannot limit the right, that there are many cases of property let to two or more persons holding in severalty, portions of which are frequently vacant, but that, the whole property being treated as one, such vacancy (being only partial) does not give a right to refund under sections 174 *et seq.*, and that it was probably for the purpose of affording some relief in such cases that the limitation prescribed by the old Acts was advisedly omitted.

In answer to this argument it is said that possibly the legislature may have had such cases in view, and consequently thought it better to substitute for the hard-and-fast line, the more elastic discretion which would admit of the principle of drawback being extended and adjusted from time to time so as to meet any class of cases to which it might appear equitable to apply it. Functions of a somewhat analogous kind are, it is pointed out, vested in the Standing Committee under section 169 of the Act; moreover, it is pointed out that it is apparently in the option of the owner to have his whole property treated as one or each several holding treated as a separate property, according, as he may, find it suits him best.

It was eventually determined to obtain the opinion of Counsel.

Counsel is therefore requested to advise the Standing Committee on the following points:—

1. Have the Standing Committee the power by the general conditions contemplated by section 158 (2) to prescribe certain classes of cases in which the sanction of the Commissioner to drawback is to be given, and to exclude from sanction cases not falling within those classes?

2. If not, what is the nature of the general conditions contemplated?

3. Are the general conditions which purported to be prescribed by the Standing Committee resolution of the 17th December 1890, *intra vires* and valid.

4. Would it be competent to the Standing Committee to prescribe the revised general conditions which were recently submitted to them for consideration?

And to advise generally.

1. I am of opinion that the Standing Committee has power to frame valid general conditions of the kind suggested in the query. There is nothing in the section to limit the nature of the general conditions to which the sanction must be subject.

3 & 4. I think both sets of general conditions in question are *intra vires* and valid.

J. JARDINE.

7th March 1892.

SALE OF FISH AT CHAOPATI.

BOMBAY, 13th November 1894.

TO SURGEON LIEUT.-COL. T. S. WEIR,

Acting Municipal Commissioner.

SIR,—With reference to the Municipal Commissioner's No. 10144, dated the 31st July last, we have the honour to state that, though the question how far the nuisance caused by the fish and vegetable sellers, who resort to the foreshore of Back Bay

at Chowpati, can effectively be dealt with under the Municipal Act, is by no means free from difficulty, we think that nuisance may probably be checked by putting in force the provisions of section 410 of the Municipal Act.

No doubt sub-section (2) of that section excludes from the operation of sub-section (1) the case of "fresh fish sold from, or exposed for sale in a vessel in which it has been brought direct to the seashore after being caught at sea," but this, we gather, is not quite or rather is only part of what is complained of as taking place on the foreshore in question; there, we understand that women and others, after having bought fish direct from the fishing boats, proceed to squat with their purchases on the sands and retail their fish to buyers, who resort there for the purpose. The original sales from the boats would no doubt be protected by sub-section (2), but the squatting on the sands and reselling the fresh fish there, and of course the selling of dried fish do, we think, fall within the prohibition of sub-section (1).

Practically it will apparently be necessary, in order to put in force section 410, to station Inspectors, for some time at any rate, constantly on the spot at the hours when the buying and selling usually takes place to warn people that they cannot be permitted to sell fish or purchase fish on the sands, and we presume other measures will be adopted some days at least before the time from which it is determined to put the law in force, in view to making it known that such is the intention.

Section 410 does not touch the question of the sale of vegetables, and we must confess we feel a difficulty in advising how these can be dealt with unless it be under section 404, the applicability of which seems doubtful.

The word "Market" is not defined in the Municipal Act, nor is it an easy word to define satisfactorily. Taking it however to signify, as Webster in one place expresses it "an appointed place for selling and buying at private sale as distinguished from an auction," then the place in question and the concourse of persons who go there to buy and sell do apparently constitute a market, and if so, a "private Market," as it certainly is not a 'Municipal Market,' (section 398). It would be difficult to obtain a conviction under section 404, as the state of knowledge of the person charged is an essential element of the offence. Probably, however, the presence of Inspectors or Police would be sufficient to deter the vegetable sellers, particularly if they found the fish sellers disappearing.

Act XI of 1853 (an act to facilitate the removal of nuisances and encroachments below high watermark in the Islands of Bombay and Colaba) empowered the Collector to require the removal of nuisances, obstructions or encroachments below high watermark, but this Act, so far as it relates to the removal of any obstruction, impediment or public nuisance affecting or likely to affect the navigation of the Port of Bombay, is abrogated by

section 2 of Act 22 of 1855 (The Port and Port Dues Act) as to any port, river or channel in which it was previously in force, from the time when such port river or channel shall be declared to be subject to the latter act. We cannot, however, find whether there have been any such declarations, and are, therefore, not prepared to say whether or to what extent the Act of 1853 has ceased to be in force, but in any case the procedure thereby prescribed for enabling the Collector to deal with nuisances, &c., is not very suitable or applicable to such a case as the present, and, moreover, the point upon which we understand we are consulted, is rather as to the powers of the Municipal Commissioner under the Municipal Act.

We have perused the further papers on this subject, forwarded to us under your No. 18781 dated the 12th instant—We have, &c.,
CRAWFORD BURDER & Co.,

THE EPIDEMIC DISEASES ACT.

“That, with reference to subjoined Counsel’s opinion in regard to Government Notification No. 1204—702-P, General Department, dated Bombay Castle, 5th March 1897, the President be requested to submit the same to Government with a request that His Excellency the Governor in Council will be pleased to provide the necessary machinery with the view to make paras. 3 and 4 of the said Notification operative and effective.

“That meanwhile copies of the said opinion be forwarded for the information of the Standing Committee, the Municipal Commissioner, and the Plague Committee.”

QUERIES.

(1) Whether para. 1 of Government Notification No. 1204—702-P, dated 5th March 1897, is operative, specially having regard to sections 57 (1) and 2 (b), 79, 80 and 82 of Bombay Municipal Act, III of 1888, and whether the appointment of Mr. Snow, the Municipal Commissioner, and Mr. James require the approval of the Corporation or the Standing Committee?

ANSWERS.

The general rule is that where there are two Acts of the Legislature and they cannot co-exist without the object of the latter Act being defeated by the earlier one, the earlier one is *pro tanto* repealed by implication, and the question therefore is whether the Epidemic Diseases Act, 1897, gives authority to the local Government to issue the notification in question. If it does, I don’t think it matters what the provisions of the Municipal Act are, as they would be repealed by implication. The notification purports to be issued under section 2, subsection 1, of Act III of 1897, and I see no objection to paras. 1 and 2 of that Notification.

QUERIES.

ANSWERS.

(2) Whether, having regard to section 68 of the Municipal Act and sections 422, 423, 424, 425, 426, 427, and 429 of the same, is para. 2 of the same Notification operative?

(3) Whether having regard to sections 77, 78, 79, 80, 82, and 86 of the Municipal Act, is para. 3 of the said Notification operative?

As to para. 3, it is very badly drawn, and, according to the literal meaning, directs that *any* measure which the Committee may order shall be at once carried into effect by the different persons or classes of persons mentioned in that para., *e.g.*, if the Committee ordered a house to be pulled down, the Municipal Corporation, all officers and servants of the Company (*qy.* Corporation), all public servants, and all persons employed by the Committee would have to hurry off and pull that house down. Para. 3 also does not confine the operation of that para. to such measures as the Committee are empowered to take under para. 2, but refers to any measures whatever—*e.g.*, if the Committee ordered the Municipal Hall to be blown up as a means of preventing the plague, para. 3 would apparently apply to such an order. I suppose what was meant by para. 3 was that any measures ordered by the Committee within their powers under para. 2 should be carried out by such of the persons as are mentioned in para. 3 that might be ordered by the Committee to carry them out and, if that is the meaning, I should be of opinion that the para. 3 is valid as drawn, however, I consider it to go beyond the powers given by Act III of 1897 to Government. The person to decide upon what measures are necessary to prevent plague is the Governor in Council or local Government when authorised under subsection 3, section 2, and this duty cannot be delegated to the Committee or any one else. Having decided on the measures which are necessary, I think the Committee could be appointed to carry out the details of such measures,—*e.g.*, if Government decided that all insanitary houses should be pulled down, I think the Committee could decide what houses were insanitary.

I think this answers questions 1, 2, 3.

(4) Whether para. 4 of the Notification is operative having regard to sections 111 to 118 of the Municipal Act; and whether, under section 116 of the Act, the Standing Committee and the Secretary will be justified in refusing to pass cheques for expenses incurred under para. 4 of the Notification?

I think the Notification para. 4 is not authorised by Act III of 1897, section 2, sub-section 1. It is badly drawn as it does not mention any person by whom the expenses are to be paid. It merely says out of the Municipal Fund. I was inclined to think that this perhaps might be sufficient as to the manner in which the expenses were to be paid; but, on further consideration, I think this is not so. The machinery and conditions for drawing on the Municipal Fund provided by the Bombay Municipal Act are not interfered with, and I think they are still in force, and that no cheques

QUESTIONS.

ANSWERS.

need be signed except in accordance with those provisions. I think the Trustees of the Municipal Fund, *viz*, the Corporation (section 111) could be ordered to pay the expenses incurred in carrying out the measures mentioned in para. 2, but not *any* measures beyond those mentioned in para. 2. I presume para. 4 meant that the Corporation should pay out of the Municipal Fund; but it does not say so, and no machinery is provided for the making of such payments or for drawing on the Municipal Fund for the purpose.

See previous answers.

The Notification is only valid under the Epidemic Diseases Act, and there was no force from anything in the Municipal Act.

(5) Under what sections of the Municipal Act and the Epidemic Diseases Act of 1897 can paras. 1, 2, 3 and 4 of the Notification be considered to be operative and legal?

(6) What is the "control" referred to in Chapter XX of the Municipal Act, and whether such "control" can be exercised by the issue of Notification No. 1204, General Department, dated 5th March 1897?

This Chapter XX has nothing to do with the Notification. It applies only in cases where the Corporation fail in their duty and the Government take steps under that chapter which they have not done. "Control," I understand, to be the right given to the Government to intervene upon complaints made in case the Corporation do not carry out their duties under the section mentioned in section 518.

(7) Whether it is necessary to amend the Municipal Act in order to legalise the operation of the Notification in question.

No, except in the case of the making of payments out of the Municipal Fund: assuming para. 4 to be valid, it may be necessary to provide for the necessary machinery to draw on the Municipal Fund if such expenditure is not entered in the Budget grant.

(8) To state the position of the Corporation in regard to the Notification in question.

The position of the Corporation is sufficiently indicated in the previous answers. As Government have the power to make the Corporation pay the expenses alluded to, the objection to para. 4 is a technical one and could be got over by a further notification. Although para. 3 is open to the objections pointed out, yet, if it really was intended to mean what I have supposed was intended, there seems no objection to it.

(9) And generally.

Under section 1, sub-section 3, of General Clauses Act, 1864, the term "person" includes a Corporation.

March 25th 1897.

(Sd.) J. D. INVERARITY.

ERECTION OF BUILDINGS CONTRARY TO SECTION 347 OF ACT III OF 1888.

BOMBAY, 18th May 1893.

FROM CRAWFORD, BURDER, BUCKLAND AND BAYLEY,
TO THE MUNICIPAL COMMISSIONER.

SIR,—We have the honour to return the correspondence forwarded under your No. 3137, dated the 15th instant, and also the original agreement received under your No. 3383, dated the 17th instant. This agreement, after reciting that Mr. DeSouza has done work in contravention of section 347 of the Municipal Act within the regular line of the street, and has thereby rendered himself liable to have such unauthorized work demolished and to have his house set-back, purports to provide that in consideration of the Commissioner agreeing to forego his present right to insist on such demolition and set-back, he (Mr. DeSouza) shall not, in case of the set-back being thereafter required, claim or be entitled to receive any compensation for the unauthorised work. The document further contains a covenant by Mr. DeSouza, that in case of his selling the property he will make it a condition of such sale that the purchaser shall, at his own expense, enter into a similar covenant with the Corporation. We think that the consideration stated, namely, the forbearance to enforce at present the admitted right of demolition and set-back is sufficient to support the covenant by DeSouza that he shall not claim or be entitled to compensation for the unauthorized work in case the set-back is hereafter required, and that so long as DeSouza continues to be the owner of the property effect can be given to this provision, should the circumstances arise which will render it necessary to do so; but that in case of his selling the property and failing to fulfil his undertaking to procure a similar covenant from the purchaser, the agreement could not be enforced as against such purchaser, and the only remedy in that case would be in damages against DeSouza personally. This point we explained fully to the Commissioner in our letter of the 16th November 1882 in connection with the deed of covenant then prepared with one Hormusjee Jamsetjee Chinai in respect of the deferred set-back of his property No. 69, Lawrence DeLima Street. The following is an extract from our letter:—"We think it right to point out that covenants of this kind do not to use a technical expression run with the land, that is to say they are not binding, and cannot be made binding, on a purchaser from the covenantor unless such purchaser himself enter into a similar covenant at the time of purchase. To secure, as far as possible, the desired object, we have added a covenant that in case of Hormusjee selling to another person, before the option of purchase is exercised by the Municipality, he shall make it a condition of the sale that the purchaser shall

enter into similar covenants with the Municipality, but in case of a breach of this undertaking the remedy would be against Hormusjee or his estate, and not against the purchaser, and would be in damages only." In the case just mentioned (Hormusjee Jamssetjee Chinai's case) the arrangement was that in consideration of the Commissioner, refraining at the time from enforcing demolition and set-back, he should, for a period of five years, have an option of purchase of the whole property at a fixed price; in other cases the right of set-back is foregone until the happening of certain specified events (as, for instance, the set-back of other neighbouring houses or the re-building of the property itself), after which it is provided that the land shall be acquired at a fixed price. In all such cases the express terms of the agreement, it seems to us, preclude the possibility of the owner successfully contending that the possession of the set-back land which he is allowed to retain for the time or pending the happening of the events contemplated, can, until after such time or the happening of such events, become adverse possession, such as would, after the lapse of twelve years, bar the right to acquire the land at the price agreed to. We are therefore of opinion that subject to what we have said regarding the effect of a sale of the property by the covenanting party, the Corporation would be able to enforce such an agreement at the time or on the happening of the event contemplated by the agreement for its performance notwithstanding that this might be more than twelve years after the date of the agreement.—We have, &c.,

CRAWFORD, BURDER & Co.

DRAINAGE.

In the High Court of Judicature at Bombay, Ordinary Original Civil Jurisdiction, Suit No. 5 of 1890. Serafina deGa, plaintiff, vs. E. C. K. Ollivant, defendant. Coram Parsons, J.

Judgment delivered on 20th June 1890.—The decision of this case depends upon the construction to be placed on sections 230, 231 and 260 of the Bombay Municipal Act of 1888. The short facts are these:

In obedience to a notice, dated the 11th October 1886, issued under sections 174 and 185 of Bombay Acts 3 of 1872 and 4 of 1878, the plaintiff, in that year, drained her premises into the Municipal drain in Churney Road by a drain which ran on the north side of her compound. In July of 1889 the defendant, without giving her any notice of any kind whatever, entered her premises and constructed a new drain along the whole of the south side of her compound, he disconnected her nahani (bath-room) from her old

drain and connected it with the new one, and he also prolonged and made a side-connection into the new drain, so that it extended into the premises of her neighbour DeSouza and carried off across her land the drainage from the whole of that side of his premises. Justification for this procedure is set up under section 260 of the Act. For the defendant it is argued that, as under section 231 the Commissioner could enforce drainage according to his opinion, and as under section 230 he could authorize drains being carried through lands belonging to other persons, so under section 260 he could execute both these works himself and therefore plaintiff had no cause for complaint or suit. It has been further argued, though not pleaded, that as in this case the Commissioner executed these works at Municipal expense, so now under section 242 the drain in question belongs to the Corporation, and the plaintiff has no right at all to it. Section 260 is as follows:—(* * *) I construe this to mean that, if on a proper application of the provisions of the section therein mentioned and after adopting the procedure directed in them to be observed in respect of persons other than those by whom the work would otherwise have to be executed, the Commissioner thinks fit he may execute the work. Whether however if he chooses to execute it at the expense of the Municipal Fund he can appropriate it under section 242 is, I think extremely doubtful. The drafting of this part of the Act is bad, Section 242 appears out of place where it stands in the Act, and it cannot, I think, have been intended to apply to all the works done under section 260. Equitably at any rate it would be only a work for the expenses of which the owner was bound to pay, but has refused to pay that ought to belong to the Corporation. Whether this is so or not is not, however, a point that has to be determined in the present suit. We have only here first to consider how far the defendant was justified under section 231 in requiring the plaintiff to make the drain in question, for under my above stated rule of construction of the section he could not himself cause the work to be executed under section 260 unless he could have required the plaintiff to make it under section 231. Section 231 is as follows:—(* * *) By the plain words of that section the Commissioner must be of opinion that the premises are without sufficient means of effectual drainage before he can do anything at all. No such state of mind is proved in the present case. We have evidence only that in 1885 a general scheme for the drainage of this locality was proposed by the Commissioner, and it may be that it was then sanctioned by him and by the Town Council and by the Corporation, and it may also be that this particular drain was shown in the plan then drawn up Ex. 5, as one to be constructed. We have no evidence that in 1889 the Commissioner was of opinion that plaintiff's premises were without sufficient means of effectual drainage. It would be strange if there was such evidence since the scheme was drawn up in 1885, and the premises of the plaintiff were drained according to his notice in 1886. The plan does not and could not show the drain that the plaintiff cons-

trusted, so that unless it could be shown that after 1886 fresh orders were passed by the Commissioner in respect of this drain, it is plain that he could have come to no opinion at all respecting it. The Inspector, Fern, admits that he had only the plan to work by, and that he received no other orders on the subject. He also admits that the only objection to the drain of 1886 was that a part of it crossed a yard, which thing might be objectionable if it was sought to build over that yard in the future. Whatever opinion, therefore, the Commissioner might arrive at with reference to the drainage of the plaintiff's premises as it existed after 1886 (and I have no desire to say anything that may influence him in the future), it is plain that he has yet formed no opinion thereon, and his sanction to a certain scheme of drainage given in 1885 for a whole district cannot be held to be his opinion of what in 1889 was necessary for the effectual drainage of certain premises in that district which had already been drained by his orders in 1886. The opinion required by section 231 must mean one that has been formed after due consideration of the premises and at the time at which the works are ordered to be done. It may be that now the provisions of section 233 might be found to be the proper ones to put in force in a case like the present. Be this, however, as it may be, I have no hesitation in holding that the very first requirement of section 231 is not shown to have been satisfied in the present case, and that therefore the defendant does not justify his action under that section read along with section 260.

We have next to consider whether the defendant was justified under section 230 in carrying a drain from DeSouza's premises across the plaintiff's land. Section 230, sub-section A, runs as follows:—(* * *) It plainly requires the preliminaries (1) that a certain state of things shall appear to the Commissioner, (2) that a notice shall be given to the owner of the land, (3) that the Standing Committee shall approve, and (4) that the owner shall be authorized. Section 260 can order unnecessary the latter of these only. The three first requirements relate not to the person by whom the work would otherwise have to be executed, but to the owner of the land, and these therefore have to be strictly observed. In the present case not one of these conditions is shown to exist or to have been done. Admittedly, no notice was given to the plaintiff and the approval of the Standing Committee was never even asked for. The sanction of the Commissioner to the general scheme in 1885 cannot be held to be evidence of what appeared to the Commissioner in 1889. It is difficult to suppose (though here again I speak without wishing to bind the Commissioner in any way in the future) that the Commissioner with a true knowledge of the state of affairs as they existed in 1889 would have ordered a second drain to be made in the plaintiff's compound or been of opinion that the only means or the most convenient means of draining DeSouza's house was by carrying a drain through plaintiff's land. The map shows that DeSouza's premises could be, as, if not more conveniently drained, through his own

land. However, I need not go into this point. The requirements of section 230 not having been satisfied, the action of the defendant cannot be justified under that section read along with section 260. There is one other section which I must allude to, though it has not been mentioned in argument, and that is section 238. Under that section, taken with section 260, the Commissioner may connect the drain of one person with the drain of another, but then notice must be given and the approval of the Standing Committee obtained. As neither of these things were done in the present case, that section can afford no justification for the acts of the defendant, and has not therefore, I presume, been relied on. I find on issue 1, that the suit is not barred by limitation. The time allowed is 6 months under section 527, and suit has been filed within that time.

2. Notice has been given in which the cause of action is clearly set forth. The work was done between the 9th and 20th July, but the words in the notice, "on or about the 6th July," state, in my opinion, with reasonable particularity, the time, the cause of action accrued, if such time needs to be stated.

3. Trees were taken up, a creeper cut back and a hole made under the wall; the allegations, therefore, in para. 3 of the plaint, though somewhat exaggerated, are in the main correct.

4. Drainage of the house to the south of plaintiff's property was made to flow across plaintiff's land through this drain as alleged in para 3. How long it so flowed is, I consider, a point of no importance, but I see no reason to doubt Fern's evidence that he stopped the flow on July 29th.

5. Defendant's action is not justified by section 260.

6. Plaintiff is entitled to recover the sum claimed as damages, *viz.* Rs. 100, which sum has been paid into Court.

7. Plaintiff is entitled to the order asked for in para (a) of the prayer of the plaint, but not that asked for in para (b), since the future action of the Municipal authority cannot be so controlled.

8. Decree that defendant remove drain and restore land to its former condition and pay plaintiff Rs. 100 damages and the costs of this suit. True Copy.—L. A. WATKINS, Judge's Clerk.

HIGH COURT, *2nd July* 1890.

ALLEGED NUISANCE AT FORAS ROAD.

EX PARTE.

THE MUNICIPAL COMMISSIONER OF THE CITY
OF BOMBAY.

Re complaint filed by Mr. Merwanji Kai-
khushroo, under section 515 of the

Municipal Act, 1888, with reference
to an alleged nuisance at Foras Road.

CASE FOR THE OPINION OF COUNSEL.

On the 4th September 1900, an information was filed before the 2nd Presidency Magistrate by Mr. Merwanjee Kaikhushroo ; a partner in the firm of Messrs. Bicknell, Merwanjee and Motilal, Solicitors, and residing at 2, Foras Road, near Grant Road Station, complaining of the existence of a nuisance, alleged to be caused by the Municipality, locating in Foras Road empty carts used by them for the removal of refuse ; the file of the papers containing a copy of the information is sent herewith and also a copy of the complainant's evidence which was taken at the first hearing of this case, on the 12th instant, when the matter was adjourned to the 10th October for further evidence.

This information is filed under the provisions of Section 515 whereby any person who resides in the City may complain to a Presidency Magistrate of the existence of any nuisance or that in the exercise of any power conferred by Sections 224, 244, 245, 246, or 367 more than the least practicable nuisance has been created.

The powers conferred by Sections 224, 244, and 245 are in respect of the alteration, ventilation and emptying of drains while Sections 246 and 367 are in respect of the disposal of sewage and refuse respectively.

The nuisance complained of does not arise in the exercise of the powers conferred by any of the last mentioned Sections but arises in the execution of powers conferred by Section 365.

There is no dispute, as will be seen from the file of papers, that carts used by the Municipality for the collection of refuse are stored in Foras Road (although it is not admitted that they create the nuisance complained of by the complainant nor that they are brought so close to the complainant's residence as he alleges) and if the complainant by his evidence satisfies the Magistrate that he is inconvenienced by the act complained of, the Magistrate will probably hold that there is a nuisance.

It is suggested for Counsel's consideration that possibly Section 515 does not apply to such a case as this, because (1) what is complained of is an alleged improper performance of duties under Section 365 which would oblige the Magistrate to sit in judgment on the mode in which the Commissioner carries out the Act ; (2) this proceeding is in effect equivalent to a civil action for an injunction ; (3) no proper order could be made on this proceeding, (a) the carts must be kept as they are required, (b) the Commissioner has nowhere else to keep them, (c) the order could not authorize the Commissioner to place the carts on any one else's land, (d) the Magistrate cannot make an order that the Commissioner should acquire land which would involve (1) compulsory powers and (2) funds.

The Commissioner has neither.

No doubt the basis of the complaint is that putting the carts on the public road is in itself an illegal act, if it were not for this, it would be almost impossible to find any place within the inhabited part of the City in which to store the carts since they would be as near to some one as they now are to the complainant's house.

The questions on which Counsel's advice is requested are :—

1. Whether this case falls within Section 515 and what line of defence should be taken in defending this prosecution.

1. In my opinion the case falls within Section 515, I think it should be pointed out that the storing of carts on the roadway *per se* cannot be dealt with under this Section and that the complaint must make out a clear case of nuisance proceeding from the carts. Such a nuisance can only arise in one of two ways, (1) by leaving refuse and manure in the carts when they are stored at Foras Road for the night, (2) by providing a shelter under which people may be encouraged to commit nuisance. Both of these nuisances are easily preventible and I think the Magistrate would be justified in passing an order for abatements of such nuisances. I think the complainant must define his nuisance. If he ascribes it to an intolerant smell in the carts I should think he will be disbelieved.

2. Whether in the event of the Magistrate holding that nuisance does exist and directing the Commissioner under Section 515 (2) (a) to put in force any of the provisions of the Act or to take measures to prevent, abate, diminish, or remedy such nuisance what proceedings if any, could be taken to enforce compliance with such directions as although Section 515 (3) provides that it shall be incumbent on the Commissioner to obey every order made by the Magistrate, no penalty is provided for disobedience of such orders, and

2. Any disobedience of an order which may be passed will be punishable under Section 188 of the Penal Code by fine or imprisonment.

3. To advise generally.

BASIL SCOTT,

3rd October 1900.

BUILDINGS WITHIN THE REGULAR LINE OF THE STREET.

In the High Court of Judicature at Bombay, Ordinary Original Civil Jurisdiction.—Appeal No. 670, under section 3 of Act XII of 1888, against decision passed by the Chief Judge of the Court of Small Causes of Bombay.—Municipal Commissioner, Appellant, *vs.* Patell Hajee Mahomed Ahmed Jann & others, Respondents. (Appeal Court Judgment.—Coram the Chief Justice & Mr. Justice Bayley.)

Judgment.—The question we have to determine turns upon the language of section 163 of the Municipal Act of 1872. That section contemplates the re-building of a house or building which has been taken down, burned down or has fallen down, and enables the Commissioner on the house being rebuilt to require the same to be set back, and provides that the portion of land so added to the street shall thenceforth be deemed part of the public street and be vested in the Corporation; and that on taking possession of the ground the Corporation shall make full compensation to the owner of any such house for any damage he may thereby sustain. The Judge of the Small Cause Court has calculated the amount on the basis of the value of the strip round the three sides of the Mosque treating it as frontage land. He held that “the circumstance that the petitioners had not lost their frontage was of no importance, as it resulted only from the use to which the Municipality have as yet put the land they have taken, and that it was a fallacy to argue that the Municipality should pay less than a frontage price, because after taking it they have now applied it to bring the road which they may hereafter narrow again nearer to the petitioner’s back land.” This view of the Municipality ability* appears to us to ignore the true nature of the power of the Municipality to insist on the set back. It is only for the purpose of bringing the buildings in question into line with the public street that the power can be exercised, or in other words, the owner retains all the advantages of frontage which he had previously possessed. It is true that by section 154 the Commissioner, with the sanction of the Corporation, may “discontinue or stop up any public street or road,” and by section 155 sell the land, but this is a contingency to which the property before the set-back was liable to and cannot have any bearing on the question as to the damage which the owner sustains by reason of the set-back. It was contended, however, by the Advocate General for the applicant that the circumstance that the applicant will retain his frontage cannot be taken into consideration on the same ground as the Court of Exchequer in *Senior vs. Metropolitan Railway Company*, 32

* Note by the Municipal Solicitors—so in the original.

L. J. Exch. 223, in assessing compensation for "injuriously affecting" under the Land Clauses Consolidation Act 8 and 9, Vic. ch. 20, refused to take into consideration the benefit the owner would ultimately derive from the Railway for which the land had been taken up. The above ruling would doubtless be applicable if the Municipality were contending that the applicant had sustained little or no damage owing to the ultimate improvement to the property which might be expected to result from the widening of the roads and increasing the traffic. In the present case, however, the question is not as to "a benefit likely to accrue," but one which necessarily and immediately results from the exercise of the power, and we cannot doubt that it was intended it should be taken into consideration in determining the damage sustained by the owner. The effect of its being so taken into consideration is to exclude any claim for "damage" arising from depreciation in value of the applicant's land to the back of the set-off, which under ordinary circumstances would result if the set-back had become the property of the Corporation, subject to no consideration as to the use of it.

What, then, is the damage which the owner sustains by the set-off? Mr. Hewson, who acted as surveyor for the applicant, has assessed its value on the basis of the shop rents derived from the land of which it was a part. Mr. Morris, who acted for the Municipality, at clause 9 of his report, says: "That, as it appears to me, it will be apparent that the set-back of the Trustees' building has merely deprived it of some of the land upon which it was proposed to construct rear rooms for the shops, and that consequently the only loss they can have sustained is represented by the rent which they would have received had these rooms been available, and that the estimate of compensation should be framed on this basis." This method of assessing the damage makes it depend on the particular circumstances of the applicant's property and the course he may adopt in view of the Commissioner's decision. Indeed, Mr. Morris admits that if the whole of the Paidhoni shop had been taken, and it was not possible to build others at the back of the set-back, he would have taken the whole of the set-back as frontage. The question is not without difficulty. The language of section 163 shows that the compensation becomes due as soon as the Corporation takes possession, which is when the owner begins to build, and there being no words in the section to show a contrary intention, the compensation must, we think, be assessed according to the state of things then existing, and not upon the basis of what the owner may have it in his power to do, by appropriating other property at the back, towards diminishing the damage which would otherwise result to him. The expression "any damage he may sustain" is intended, we think, to insure compensation to the owner for every sort of damage, and not to restrict it to compensation for such damage as he may, by his own arrangements, contrive to reduce it to.

If this be the true construction of the section, and we are informed that such has been the construction placed on it in practice, the damage consists in the loss of a strip of land forming part of land having a frontage value, and a proportionate part of which must, according to the ordinary mode of valuation, be appropriated to the strip in question, and, we think, that Mr. Hewson's view is, therefore, more in accordance with the intention of the section as the frontage values fixed by Mr. Hewson are not disputed, nor the extent of the set-off, the compensation fixed by Mr. Hewson and adopted by the Judge of the Small Cause Court independently of the question of the 15 per cent. must stand. As to the 15 per cent., it is expressly directed to be allowed in addition to the compensation by section 42 of the Land Acquisition Act 1870, in consideration of the compulsory nature of the acquisition, but no such provision is to be found in the Municipal Act passed subsequently in 1872. It constitutes no part of the compensation properly so called for the owner's loss and cannot, therefore, without an express provision for the purpose be allowed by the Court. The 15 per cent. must, therefore, be disallowed which will reduce the compensation to Rs. 13,821.74.* Parties to pay their own costs of this appeal. True copy of the original M.S. Judgment.—L. A. WATKINS, Judge's Clerk.

High Court, 23rd June 1890.

ALTERATIONS IN LINES OF STREETS.

EX PARTE—THE MUNICIPAL CORPORATION RE IMPROVEMENT OF PYDHOWNI ROAD AND COMBAD STREET

INSTRUCTIONS FOR COUNSEL TO ADVISE.

Herewith are sent, for Counsel's information, certified copy of judgments of the Chief Justice and Mr. Justice Russell in an Appeal No. 694 of 1899 against a Decree of the Lower Court (Mr. Justice Crowe) in a suit by one Essa Jacob Haji Jamal against the Municipal Commissioner, also certified copy of the Appeal Court's Decree of 31st August 1900, following the above judgments. The point in that case was, whether the Commissioner having, shortly after the present Municipal Act came into force in 1888, prescribed the regular line of a public street under

* *Note by the Municipal Solicitors.*—This amount is obviously wrong: it ought to be Rs. 10,300 as per decree, dated 2nd May 1890.

Section 297 (1), he or his successor for the time being could, in consequence of the exigencies of traffic and altered conditions, afterwards prescribe a fresh line for the same street so as to give a wider and better alignment. Mr. Justice Crowe decided that the Commissioner was justified in doing this, but the Appeal Court has reversed that decision, and it must now be taken to be authoritatively laid down that as the Act now stands, the regular line once prescribed by the Commissioner under Section 297 cannot afterwards be altered.

This decision affects many cases, as it has been by no means an unusual thing for the Commissioner in later years to improve on the lines which in 1888 were considered suitable, with the result that in some cases set-backs have been obtained in accordance with the new lines and in some arrangements have been come to with the parties under which the set-back land has been conveyed to the Municipality, but the parties have been permitted to retain their buildings on it until the happening of a certain event, *e.g.*, the set-back of the adjoining house on either side, the land with the structure on it being in the meanwhile leased to them by the Municipality.

Essa Jacob's case was the first in which the right to alter the regular line was ever seriously disputed, but several other persons, while that case was pending or after its decision, took the same point.

Amongst these latter were Valee Mahomed Peer Mahomed and Dost Mahomed Peer Mahomed, the owners of a property at the junction of Pydhowni Road and Combad Street, who, on the 25th January 1900, gave notice, pursuant to Section 337 of the Municipal Act, of their intention to build on this property; and on the 24th February 1900, were called on to set-back to regular lines of these streets, which purported to have been prescribed under Section 297—but which were new lines and not those originally prescribed for those streets after the Act came in force.

A plan is sent herewith which shows in red the original lines, and in blue the revised new lines—the former of course must now be taken to be the only regular lines duly prescribed and now in force under Section 297.

The accompanying copy, correspondence marked **A**, will now be intelligible :—It will be seen from it that Mr. Dost Mahomed Peer Mahomed in his letter of the 7th September last (written after the appeal in Essa Jacob's case had been decided) takes the points as to whether the requisition for set-back to the blue lines is justified by the Act. The Executive Engineer having regard to that decision and to the importance, notwithstanding it, of having these particular streets widened as opportunity should occur, in accordance with the blue lines, suggested that Section 289 (2), of the Act should be resorted to and that to avoid frequent references to the

Corporation their general sanction should be obtained under that section to all future buildings being set-back to the new lines ; the Commissioner agreeing with the Executive Engineer, accordingly applied to the Corporation, who by their Resolution No. 9186, dated the 12th November 1900, postponed the consideration of the matter, requesting the Commissioner "to take Counsel's opinion as to the legality of the course for which he asks the "sanction of the Corporation."

It is of course obvious that no Resolution of the Corporation could avail to authorise the Commissioner to treat these cases under the ordinary set-back Sections (Sections 297 and the following) on any footing other than that on which he can of his own authority deal with them, namely, on the footing of the regular lines originally prescribed ; but there seems to be no apparent legal objection to a general scheme of widening being sanctioned by the Corporation *under Section 289* so as to attain to the widths of street which were contemplated when the regular lines were sought to be altered, nor, it is suggested, would the fact that such scheme is proposed to be carried out gradually (as for instance when the houses are proposed to be rebuilt, &c.) constitute any legal difficulty or objection to it.

Recourse to Section 289 would of course entail the consequence that under the joint effect of Section 296 and Section 91 the land required would, in the absence of agreement, have to be acquired under the Land Acquisition Act, which would involve the further consequence that the Municipality would probably have in each case to acquire the whole property and could not, as under the set-back sections, limit their acquisition to the particular portion actually needed for the street improvement ; this of course would mean a considerably larger initial outlay, though the difference might be to a considerable extent and possibly fully made up by re-sale of the portions not thrown into the street.

Counsel is requested to advise the Corporation and Commissioner :—

1. Whether under the circumstances appearing in the instructions and having regard to the decision of the Appeal Court in the case of Essa Jacob, there is any legal objection to the Corporation sanctioning under Section 289 (2) of the Municipal Act the proposal made by the Commissioner in his No. 18021, dated the 12th October 1900, for widening the two streets (Pydhowni Road and Combad Street) to the extent shown in blue lines on the plan ?

And to advise generally.

1. I think the resolution in the form proposed is objectionable. I see no objection to the Corporation sanctioning the widening of the streets in question to the widths proposed, but what is suggested is that they should sanction a particular set-back and set-backs in all future cases which is not quite the same thing as sanctioning the widening of the street, the Corporation in my opinion should sanction the widening and improvement of the streets to the proposed widths in general terms. It will then be for the Commissioner to carry out the undertaking in the way he considers most feasible, and I do not see any objection to his doing the work gradually from time to time.

J. D. INVERARITY.

January 23rd, 1901.

ACQUISITION OF LAND UNDER THE LAND ACQUISITION ACT.

BOMBAY, 17th December 1892.

To H. A. ACWORTH, Esq.,

Municipal Commissioner.

SIR,—In acknowledging the receipt of your letter No. 19887, dated the 15th instant, we have the honor to state that we consider there is no use whatever in disputing and that we cannot appeal against the refusal of the District Judge of Thana to retain and hold the compensation awarded in respect of the Pawai Land.

Although, as stated in our letter of the 22nd ultimo, it seems to have been customary in such cases to pay the money through the Court, it is, we think, evident that where this is objected to, it cannot be insisted on.

The Land Acquisition Act does not provide for or recognize any payment by the Collector except to the persons interested. In fact, section 40 expressly directs that "Payment of the compensation shall be made by the Collector according to the award to the persons named therein, or, in the case of an appeal, under section 39 (that is to say, an appeal from the decision as to the apportionment) according to the decision on such appeal."

All that the Court has done is to decide that, in the face of the objection taken to the payment into Court, it cannot retain the money. The Court has not made any direction in regard to interest, but section 42 of the Act provides that the amount awarded and the percentage for compulsory acquisition shall be paid by the Collector with interest at 6 per cent. per annum "from the time of so taking possession," subject to the proviso that, "where the decision of the Court under Part III or Part IV. (the apportionment provisions) of this Act is liable to appeal, the Collector *shall not* pay the amount of the compensation or the percentage or any part thereof until the time for appealing against such decision has expired and no appeal shall have been presented against such decision, or until any such appeal shall have been disposed of."

The question of the apportionment between the claimants and counter-claimants has now to be determined under section 39 by the Judge sitting alone (*i.e.*, without Assessors), and any of the parties will have a right of appeal against his decision; there can, therefore, be no doubt but that the time for payment which the Act prescribes will not arrive until the appeal (if there be any) has been disposed of, or, if no appeal is presented until the time for appealing has expired. And the only question is, whether

the interest runs until that time arrives. The Advocate-General of Bengal, we find, has expressed the opinion that, where proceedings are pending under the apportionment provisions, interest is payable up to the date of decision, and we cannot feel any doubt but that that opinion is correct.

It certainly is extremely unsatisfactory that the Municipality should be obliged to retain the money and pay interest thereon during the pendency of proceedings in which they are not interested, and over which they have no control, and which consequently may (so far as their power to prevent it is concerned) be protracted almost indefinitely.

We fear, however, that, as the Act stands, there is no escape from this position.—We have, &c.,

CRAWFORD, BURDER & Co.

RE SET-BACKS.

EX PARTE THE MUNICIPAL CORPORATION RE DEFERRING SET-BACKS.

CASE FOR THE OPINION OF COUNSEL.

Section 297 of the Municipal Act provides for the Commissioner prescribing a line on each side of any public street within which buildings are not to be constructed, and section 298 empowers the Commissioner in cases of proposed rebuilding, removal, or alteration of buildings within that line to require their set-back for street improvement. It frequently happens that, under these provisions, a right of requiring a set-back arises, which however, by reason of adjoining houses not having yet become amenable to the set-back provisions, or otherwise, can without detriment, and, indeed in some cases, with positive and advantage to public interests, be deferred until the happening of some future contingency, as, for instance, until one or other, or perhaps both of the adjoining, houses are set back; the liability to set-back having however arisen, it is important not to waive it altogether, but to secure the set-back on the happening of the contingency contemplated; it is usually too, in such cases, a matter of advantage to the owner of the house to get the set-back deferred, and it generally happens that it is he (the owner) who begs as a concession that the set-back of his house and the taking up of his

land may be postponed. It often happens also that persons, either in ignorance or disregard of the provisions of the Act, proceed with the execution of work within the set-back line without giving the notice which the Act requires before commencing, and then, when required to remove such work and provide the set-back, they apply to the Commissioner to allow them to retain their buildings on the ground (*inter alia*) that the immediate set-back can be of no advantage to the Municipality. In all these cases, if the Commissioner considered the set-back might properly, and without detriment to public interest, be deferred, it was for some time the practice to take agreements from the owners by which they undertook that, in consideration of the Commissioner foregoing the immediate right of set-back, they would on the happening of a future contingency, such as the set-back of the adjoining building, give up their land to the Corporation at a rate fixed in the agreement and remove all unauthorized work at their own expense and without claiming any compensation for it from the Municipality; and also that, in case of their selling before the happening of the contingency, they would procure their purchaser to enter into similar covenants with the Municipality. This practice continued up to May 1893, when an agreement of the nature just mentioned having been referred to the Municipal Solicitors for opinion, the latter wrote to the Municipal Commissioner the letter of the 18th May 1893, which will be found printed at pages 56 and 57 of the accompanying volume (vol. XVII, part II) of the Record of Proceedings of the Municipal Corporation and the Standing Committee. The matter came up for consideration before the Standing Committee on the 25th May 1893, when that body resolved "That, in future, all agreements relating to set-backs should only be agreed to upon the basis of the Municipality taking over possession of the land and the unauthorized erections thereon at such price for the land as may be agreed on between the Municipality and the reputed owner, and leasing such land and erections at a rental to be fixed by the Municipal Commissioner." By thus taking an immediate conveyance from the owner of the set-back land, coupled with an agreement for his continued occupation of it as a tenant of the Municipality, the object seemed to be better secured than by the old system which, amongst other objections, was open to the serious objection that, in case of the owner selling his property, his covenant to give up the land upon the happening of the contingencies contemplated could not be made to run with the land so as to bind it in the hands of the purchaser; and the remedy of the Municipality in case of the purchaser not entering into a similar agreement with them and refusing to act on the vendor's agreement would, consequently, have been in an action for damages only against the vendor as the person who had contracted with them. In accordance with the decision of the Standing Committee thus arrived at, a form of conveyance and agreement for tenancy was

prepared for general use, and a print of this is sent herewith for Counsel's perusal. The question then arose, whether it was competent to the Commissioner or the Standing Committee, without the sanction of the Corporation, to enter into such arrangements which, it will be noted, involve a letting for what *may* be an indefinite period. Counsel (Mr. Macpherson and Mr. Inverarity) jointly advised the Corporation in August 1895 that sections 90 and 289 of the Municipal Act do not refer to cases under sections 298 and 299, and that the Act prescribes no limit to expenditure upon and imposes no necessity for special sanction either by the Corporation or the Standing Committee in respect of set-backs other than the general restriction (section 115) that no outlay can be incurred unless it is covered by "a current budget grant." Thus for cases of set-backs, pure and simple, under the provisions of the Act, the Municipal Commissioner alone is competent to act, and to fix the compensation; but directly the strict procedure prescribed by the Act for set-backs is departed from and it is proposed, in lieu of such procedure, to *purchase* the land and then let it out to the person from whom it is purchased, the transaction apparently becomes one which must be regulated by the provisions of the Act in regard to "acquisition of property" (sections 87, &c.,) and "disposal of property" (section 92) respectively, and, if the price to be paid exceeds Rs. 1,000, requires the approval of the Corporation, or, if it is less than Rs. 1,000, the approval of the Standing Committee (section 90). So far as the leasing element in the transaction is concerned, the matter, it will be seen, stands thus as regards necessity for sanction:—By section 92 (a) the Commissioner may in his discretion grant a lease of any immoveable property belonging to the Corporation for any period not exceeding 12 months at a time provided that every such lease shall be reported by the Commissioner to the Standing Committee within 15 days after the same has been granted; and under clause (b) of the same section he may, *with the sanction of the Standing Committee*, grant a lease of any immoveable property belonging to the Corporation for any period not exceeding 3 years at a time, while under clause (c) he may, *with the sanction of the Corporation*, lease for any period any such property belonging to the Corporation. The question then seems to turn on whether the letting contemplated by the printed instrument involves a letting for a period exceeding 12 months or 3 years as the case may be. It obviously confers the present right to occupy for one year certain and no more, but it does no doubt also confer a prospective possible right of remaining in occupation for a further period which may extend to more than one year or to more than 3 years. In *Hand vs. Hall* (L. R. Q. Exch., Div. 355) it was held that a letting for a year with right at the end of that term for the tenant by a month's previous notice to remain on for $3\frac{1}{2}$ years more constituted an agreement which was divisible and contained merely an actual demise for the shorter term, with a superadded

stipulation that the lessee at his option should have a renewal of the tenancy, and that as to the actual demise it was not subject to legal conditions affecting a letting for 3 years. It was thought advisable under the circumstances to bring such cases before the Corporation for sanction, and the Standing Committee accordingly resolved on the 15th January 1896 that a letter of the Commissioner, by which he had placed several pending cases before them, should be forwarded to the Corporation, with the recommendation that sanction be given to agreements being entered into with the respective owners of the several properties referred to on the basis of the Standing Committee's resolution of the 25th May 1893, "allowing the several persons whose names were included in the list, or other the respective owners for the time being of the several properties, the temporary use and occupation of the several pieces of ground therein mentioned as having been built over within the regular lines of the several streets on which such properties respectively abut, on conditions to be contained and set forth in the said respective agreements, and on the further condition that, on the happening of the event or events respectively mentioned, the said owners should give up to the Corporation the said respective pieces of land which are to be fully described and set forth in the said agreements and shown on the tracings to be attached thereto. That the said owners shall also pay annually, in advance to the Corporation for the several pieces of land so to be leased to them respectively, a yearly rental calculated at 6 per cent. on the amounts which they respectively will receive from the Municipality for the sale to it of the said several set-back lands as provided in the said agreements." The Corporation on the matter coming before them resolved on the 6th February 1896, "That, with reference to resolution of the Standing Committee, No. 11624 of the 15th January last, the joint opinion of Counsel be taken by the Acting Commissioner as to the power of the Commissioner and the Standing Committee to enter into agreements of the character referred to in such resolution."

Counsel are therefore requested to advise the Corporation.

QUERIES.

1. Whether the provisions of the Municipal Act as to "acquisition of property" apply to such set-back cases as are mentioned in the instructions when taken out of the strict procedure prescribed by the Act in respect of set-backs.

ANSWERS.

1. We are of opinion they do not, the printed form of the purchase and lease shows that what really is done is for an agreement to be made in order to prevent the Commissioner enforcing the set-back sections.

To such an agreement for purchase of land we think the provisions of section 90 apply and that the sanction of the Corporation is necessary in cases of the price being over Rs. 1,000, and the sanction of the Standing Committee under that amount.

2. Whether, as regards the agreement for allowing the owner to retain his building in his own occupation as a tenant pending enforcement of the set-back, such agreement, if made in the form proposed, necessitates the sanction of the Standing Committee or Corporation as creating a lease for more than a year or more than three years.

3. Whether the Commissioner or the Standing Committee have power (except with the sanction of the Corporation) to enter into arrangements, such as are contemplated by the printed form of deed sent herewith, (a) where the amount to be paid as purchase money exceeds, and (b) where it is less than Rs. 1000.

And to advise generally.

2. We are of opinion that the sanction of the Standing Committee is not necessary. A lease from year to year is determinable at the end of the first as well as any subsequent year by notice (*Dord. Clerke vs. Smaridge*, 7 Q. B. 957). The lease is therefore for not more than twelve months.

3. See answer 1.

BASIL LANG.

J. D. INVERARITY.

23rd April 1896.

EX-PARTE THE MUNICIPAL CORPORATION *RE* SET-BACK PROVISIONS OF THE MUNICIPAL ACT.

CASE FOR THE OPINION OF COUNSEL.

Counsel's attention is drawn to sections 297, 298 and 299 of the City of Bombay Municipal Act, 1888.

Section 297 directs that the Commissioner "shall prescribe a line on each side of any public street within which, except under the provisions of section 310, no portion of any building abutting on the said street shall, after such line has been prescribed, be constructed." Such line is called "the regular line of the street." Section 298 enables the Commissioner when it is proposed to re-build, &c., any building, any part of which is within the regular line, to require, in any order which he issues concerning the re-building, &c., under section 345 or 346, that such building be set-back to that line; and section 299 enables the Commissioner, in the case of land within the regular line not occupied by a building, whether such land be open or enclosed, to take possession on behalf of the Corporation after due notice as therein prescribed. Section 301 provides for compensation to the owner of any building or land acquired under section 298 or 299, and section 504 directs that the amount and apportionment of such compensation may, in case of dispute, be determined by the Chief Judge of the Small Cause Court.

A regular line has been prescribed under section 297 for improvement of the Altamont Road and notices, under section 299,

were some time ago served on the owners of several of the properties adjoining that Road, with a view to the acquisition of portions thereof for the proposed improvements.

A printed copy of a report on the subject made by the Acting Commissioner for the information of the Corporation, and dated 4th June 1895, is sent herewith.

It should be explained that shortly after the present Municipal Act came in force, the then Commissioner Mr. (now Sir Charles) Ollivant found it desirable, having regard to the changes introduced by the new Act on the subject of street improvements, to draw up a memorandum expressing his views regarding the effect of the provisions of the Act contained in the two first sub-heads of Chapter XI, namely, "construction maintenance" and "improvement of public streets" and "preservation of regular line in public streets." He forwarded this memo. (a copy of which is sent here-with) to the Solicitors with instructions that, after discussing the several questions dealt with in it, with him, they should obtain the opinion of Counsel on certain points as to which he was in doubt. This was done, and a copy of the case laid before Counsel (Mr. Inverarity) and of his opinion thereon, dated 28th February 1889, is sent herewith. The quotation given by the Acting Commissioner in his report of the 4th June 1895, as to what the Solicitors wrote on 1st March 1889, is a quotation from the case so submitted to Mr. Inverarity.

The correctness or otherwise of the view of Sir Charles Ollivant in which the Solicitors thus concurred, namely, that the Act does not prescribe any limit to expenditure upon "set-backs" other than the general restriction (section 115) that no outlay can be incurred unless it is covered by a "current budget" was not a question directly submitted to Mr. Inverarity on that occasion.

The Municipal Corporation having, on the 13th July 1895, taken into consideration the Acting Municipal Commissioner's report of the 4th June 1895, determined that the joint opinion of Counsel be taken on the points raised and as to whether section 90 of the Municipal Act, does not control sections 298 and 299 as regards any agreement for the acquisition of immoveable property, the price of which exceeds Rs. 1,000.

In cases where it is desired to obtain a "set-back" under section 298, it will be found, from a reference to sections 345 and 346, that the Commissioner's order (in which, under section 298, his requisition for set-back must be made) has to be intimated in writing to the owner within 30 days after receipt of the notice of the intended work under section 337 or 342 as the case may be, or of the plan, section, description or further information if any called for under sections 338, 340 or 343 and, as the necessary plans, sections and description are, as a matter of fact,

usually submitted *with* the notice, it practically becomes necessary, in most cases, to decide definitely and intimate to the party within 30 days from the first receipt of the notice, if a set-back is to be called for.

Under these circumstances if the specific sanction of the Corporation is necessary before the Commissioner can call for the set-back, this, as will presently be shown, will often render it extremely difficult, and in some cases practically impossible, to obtain a set-back at all.

The Act only renders one meeting of the Corporation in a month obligatory, and, except that the March meeting must be held not later than the 20th, and that the April meeting after General Elections (*i.e.* every three years) is to be held as early as conveniently may be in that month [*vide* section 36 (*a*), (*b*) and (*c*)], there is nothing to prevent the monthly meeting of any one month being fixed for a date in that month more than 30 days after the date on which the preceding month's meeting was held; it is therefore obvious that cases might arise in which it might be impossible to obtain any decision by the Corporation within the 30 days prescribed by section 345 or 346; moreover, when it is remembered that the departmental officers have to examine the plans, to visit the premises, and to report, and that 7 clear days' notice of business to be brought before a meeting must be given [clauses (*h*) and (*j*), section 36], it will be evident that, even assuming an interval of 30 days was never allowed to elapse between two meetings, it would be practically very difficult in any case to obtain the specific sanction of the Corporation to a particular set-back in time to admit of the requisition being made within the prescribed time. Again, it by no means follows, of course, that the business of a meeting can be all got through on the first day for which such meeting is summoned, it frequently happens that the meetings have to be adjourned for want of time.

It would seem that, if the sanction of the Corporation is necessary, it would not do for the Commissioner, in order to prevent time running against him, to make a back requisition in anticipation of such set-back being sanctioned, for, when such a requisition is once made, it would appear that it cannot be withdrawn, but that an action for damages, if not for specific performance, would lie against him if it were not acted on (*Rex v. Hungerford Market Company*, 4 B & A, 327; and see also *L. R. 3 Q., P. 553*: and *L. R. 4 C., P. 97*). These are all considerations which do not, of course, apply to cases under section 299 (of which the Attamont Road case is one), as under that section the Commissioner is not limited as to time in giving his notice, but it is conceived that, so far as the necessity or otherwise for the specific sanction of the Corporation is concerned, either under section 99 or under

section 289, these two sections 298 and 299 must be on the same footing.

Counsel's attention is particularly requested to sections 90 and 289.

Section 90 refers throughout to the acquisition of immoveable property *by agreement*.

In support of the view that this section controls the Commissioner's powers under sections 298 and 299, it may no doubt be contended that it is as comprehensive in its terms as it can be, and applies to every case of *acquiring* immoveable property under the Act by agreement, and therefore comprises agreements as to the compensation to be paid under section 301 in cases of acquisition under both section 298 and section 299 (in both these sections the land, it will be observed, is spoken of as "acquired").

But assuming that section 90 does apply to such agreements, it does not apparently restrict the exercise of the Commissioner's power to require a set-back under section 298, or to give notice of intention to take possession under section 299, and would not necessitate his obtaining the previous sanction of the Corporation to either the one or the other. The effect of the section from that point of view would seem to be to render it obligatory on the Commissioner *if he agrees* on the amount of compensation to do so with the approval prescribed—if, on the other hand, he does not come to an agreement with the owner, or has to bring a proposed agreement before the Corporation for approval, and the owner does not choose to wait for such approval, he (the owner), can apparently apply to the Chief Judge of the Small Cause Court under section 504 and get the amount fixed in that way.

As regards section 289, however, the case is different—if that section applies to the cases of widening or improvement contemplated by sections 298 and 299, then it seems evident that before making a requisition for set-back under the former, or giving notice of intention to take possession under the latter, the Commissioner must (where the aggregate cost will exceed Rs. 5,000) obtain the authority of the Corporation. The considerations which led Sir Charles Ollivant to the conclusion that neither section 90 nor 289 applies to cases under sections 298 and 299 are very clearly expressed in his memorandum.

Section 289 he seems to have thought referred to comprehensive schemes for widening and improvement of a public street as a whole as distinguished from the gradual and necessarily piecemeal enforcement of the "regular line" under sections 298 and 299. It will, of course, be noticed too, that a set-back under either of these two sections may be estimated to cost less than Rs. 5,000, but that the actual cost being dependent for the most part on the judgment of the Chief Judge of the Small Cause Court in regard to the compensation to be paid to the owner of the land taken cannot beforehand be gauged with any certainty.

Counsel are requested to advise the Municipal Corporation—

QUERIES.

1. Whether, and, if so, to what extent section 90 controls sections 298 and 299, or either of them.

2. Whether, and, if so, to what extent section 289 controls the Commissioner's powers under sections 298 and 299, or either of them.

3. Whether the Municipal Act prescribes any limit to expenditure upon, or imposes any necessity for, special sanction either by the Corporation or the Standing Committee, in respect of set-backs other than the general restriction (section 115) that no outlay can be incurred unless it is covered by "a current budget grant."

And to advise generally.

OPINION.

1. We are of opinion that section 90 does not refer to cases under sections 298 and 299 at all. Section 90 applies only to land acquired by agreement. Land acquired under sections 289 and 299 is acquired without any agreement and vests in the Corporation before any payment is made for it. After acquisition, compensation has to be paid by the Commissioner under section 301. Such payment is a statutory duty and we are of opinion that there is no agreement for acquisition nor price paid for such property within the meaning of section 90 in cases under sections 298 and 299.

2. We are of opinion that section 289 does not refer to cases under sections 298 and 299. Section 289 in our opinion refers to a scheme for street improvement by widening it at one undertaking and not to the gradual widening provided for by the set-back sections.

3. We are of opinion that it does not.

27th August 1895.

JOHN MACPHERSON.
J. D. INVERARITY.

PAY OF THE MUNICIPAL COMMISSIONER AS JOINING ALLOWANCE.

BOMBAY, 27th April 1895.

To H. W. BARROW, Esq., Municipal Secretary.

SIR,—We have now the honor to state our opinion upon the points upon which we are asked to advise under your No. 1203, dated 25th instant. The salary of the Municipal Commissioner is limited by the Municipal Act, and as Mr. Acworth was (until he gave over charge) drawing the maximum salary permitted by the Act, it is evident that no other sum can for that period be paid from the Municipal Fund as salary of the Municipal Commissioner; but the appointment of Municipal Commissioner and

Acting Municipal Commissioner rests with Government, and it may well be that in making that appointment a short interval may occur between the time when the services of the officer selected as suitable become available and the precise time when the vacancy in the Municipal office arises, and the question is, whether, under such circumstances, when the officer selected is held in readiness, his salary during that interval is not a charge reasonably incidental to, and (within the meaning of Section 118 of the Act) necessary for carrying the Act into effect, namely, in the matter of the appointment of a Municipal Commissioner or Acting Municipal Commissioner as the case may be. We think it is, and particularly where, as in the present case, the officer so selected is during that interval employed in picking up, as far as may be, the threads of the important matters with which he will have to do as Commissioner. If we are correct in the above view, it follows, we think, that, having regard to section 118, the liability in question is one which attaches to the Corporation, and that the charge can be debited to the Municipal Fund.

We return the papers forwarded with your letter, as also vol. XIV of the Record of Proceedings.—We have, &c.,

CRAWFORD, BURDER & BAYLEY.

RESPONSIBILITY OF THE MUNICIPALITY IN CASES OF FALLEN HOUSES.

EX PARTE THE MUNICIPAL CORPORATION *RE* RES- PONSIBILITY OF MUNICIPALITY IN CASES OF FALLEN BUILDINGS.

CASE FOR COUNSEL'S OPINION.

A question has recently arisen in connection with several instances in which houses have collapsed in Bombay, as to how far (if at all) any legal responsibility or obligation attaches to the Corporation, or to the Municipal Commissioner, or any of the Municipal Officers, in regard to taking measures of any kind for the extrication of persons or bodies buried or supposed to be buried under the debris of such fallen buildings. Section 61 (1) of the Municipal Act makes it incumbent on the Corporation to make adequate provision by any means or measures which it is lawfully competent to them to use or to take for "the securing or removal of dangerous buildings and places." The only sections of the Act which contain *specific* provisions in relation to the carrying into effect of the obligatory duty thus imposed by the very general terms of section 61 are sections 329 and 354, but it seems quite clear that neither of these sections can have

any application to the case now under consideration of a building which has already collapsed, for, as to section 329, the danger therein referred to is expressly stated to be a danger "less to persons other than the owner or occupier," which, as to both sections (329 as well as 354), they contemplate a notice in writing being in the first instance issued to the owner or occupier—a procedure which in the nature of things might be, and almost certainly would be, quite impracticable in such an emergency as we are now considering. If therefore the obligation, expressed in general terms in section 61, of making adequate provision "for the securing or removal of dangerous buildings and places" is to be construed as limited to cases falling within the scope of section 329 or section 354, it seems impossible to hold that any responsibility at all can attach to the Municipality to interfere in the case of a collapsed building. *But* the duty imposed by section 61 (1) is not apparently limited to cases covered by these more specific provisions; it would seem, for instance, to extend to the very widely expressed obligations imposed on the Commissioner by section 64 (3) (c). The Commissioner is required by this last mentioned section, on the occurrence of any sudden accident involving danger to human life, to take such immediate action as the emergency shall appear to him to justify or to require, and the question is whether the sudden collapse of a house by which the inhabitants are buried under the debris is not such an emergency as is here contemplated. Again upon the point whether the general obligation imposed by section 61 (1) is limited to cases specifically provided for in other sections of the Act, the recent opinion of Counsel on the question of the power of the Corporation to light private streets seems by analogy to be in point. There was a general discretionary power under section 63 (h), just as here there is a general obligatory duty under section 61 (1) that general discretionary power Counsel held was not limited to cases specifically provided for in other sections of the Act. So here it would seem that the general obligatory duty is not necessarily so limited; indeed, as we have pointed out, section 64, which is also very general in its terms, would appear to extend it very materially. On the other hand can it properly be said that the removal and raising of the debris of a fallen house in order to extricate persons who have been buried under them, and who may still be living, or to remove their bodies, if dead, comes at all within the expression "the securing or removal of dangerous buildings and places?" A building, however dangerous it may have been before, can hardly be called a dangerous building after it has collapsed and come down altogether, and though the *place* may in a sense be dangerous (and no doubt is so to any unfortunate person buried under the debris but possibly still alive and requiring assistance), it may perhaps be nevertheless doubted whether it is not straining the language used to apply it to such a place under such circumstances. It has been pointed out moreover that, if

the Municipality are under any responsibility in the cases under consideration, they would be equally responsible in other cases also, as for instance, for the removal of bodies buried in earth by land slips or in trenches under excavation and that such responsibility might even extend to the rescue of drowning persons or persons in danger from other accidents too numerous to mention. At present the Municipality have no special establishments or tools at disposal to meet such cases. When a house falls, the Fire Brigade men, with their officer and the Police, are usually the first on the spot and render very valuable assistance; the services of the men of the Road, Drainage, and Health Departments of the Municipality are also called into requisition from the works in the neighbourhood of the accident, but it is not always possible to obtain the services of these men; they may be away for their meals during the day or may have left after the day's work is over. The Municipality have no special means for lighting the places of accident at night and have no special tools or appliances for the removal of heavy masses of timber or masonry. At present, when accidents occur, the best means available at the time are adopted with, as stated above, the aid of the Fire Brigade, the Police, and the various branches of the Municipality, and everything that can be done is done to minimize or remove danger, but, if the Municipality is to be held primarily responsible for saving life or for extricating bodies when accidents occur, it will be necessary to consider seriously and in details the question of keeping in reserve a staff of men and officers and also special tools and appliances for prosecuting works of this nature efficiently and expeditiously.

Counsel is now requested to advise:—

1. Whether, in the case of a house which has collapsed, any legal obligation or responsibility attaches to the Municipality in regard to taking measures to extricate persons who, or bodies, which there may be reason to believe, are buried under the debris.

2. If any such obligation or responsibility does attach, what is generally the extent of it? Is it limited to cases where there is reason to believe that human life is in danger? Does it involve a responsibility to provide and maintain a special staff and appliances to meet the exigencies of such cases—or is it sufficiently met by the present practice of rendering such assistance from the several departments or branches of the Municipality as in the circumstances of each case is found to be practicable?

1. I am of opinion that section 64, clause (c), does not impose the duty of doing so.

2. The obligation is imposed when the accident involve danger to human life, and if there is no such danger, I am of opinion there is no duty cast on the Commissioner by that section in the case which is put in these instructions. I think that it is not necessary to maintain a special staff to deal with such cases. The section contemplates the possibility of a budget grant for the purpose, but if the work can be satisfactorily done without a special staff, I see no reason why it should not be so done. The present practice appears a reasonable one. The section leaves it to the discretion of the Commissioner what action he is to take to meet the emergency, and if he thinks the present practice is reasonably sufficient, I think he has power to act on that opinion.

J. D. INVERARITY.

PROVISION OF BURIAL PLACES.

Letter, dated 14th December 1889, from Messrs. Crawford and Buckland, to E. C. K. Ollivant, Esq., Municipal Commissioner, as follows :—

SIR,—In returning the accompanying papers forwarded for opinion under your No. 8058, dated the 7th August last, we have now the honor to state our views upon the questions raised.

Section 61 (c) of the Municipal Act makes it *incumbent* on the Corporation to make adequate provision for the regulation of places for the disposal of the dead, and the provision of new places for the said purpose, and Section 436 requires that “if the existing places for the disposal of the dead shall at any time

* * * * *

“appear to be insufficient, the Commissioner shall, with the sanction of the Corporation, provide other fit and convenient places for the said purpose.”

The considerations, therefore, by which the extent of the obligation thus imposed upon the Corporation and the Commissioner must be determined are—(1) the insufficiency or otherwise of existing places for disposal of the dead, and (2) the fitness and convenience of new places proposed to be provided.

It seems impossible to lay down any hard and fast rule for determining in all cases whether the obligation arises, and if so, to what extent, for the expressions “insufficient,” “fit,” “convenient” are so essentially relative expressions, that it is possible for different persons to place such very different interpretations upon them. Speaking generally, however, we are of opinion that regard must, so far as is reasonably practicable, be had to what is usual and consonant with the customs, and well recognized feelings and prejudices (religious or otherwise) of the different races and sections of the community. Thus to take the extreme case, which you put, we feel no hesitation whatever in saying that the obligation would not in our opinion be discharged by the mere provision of sufficient space in one or more public burial grounds (such as the one at Plaines Road), for the burial of the dead of all classes without distinction. Nor again to attempt to apply the principle to the particular case which has given rise to this reference, do we feel any doubt, but that under the circumstances stated in the resolution of the Bombay Christian Burial Board, dated the 1st August last, the Corporation would not only be acting within the limits of their authority, but can only duly acquit themselves of their obligation, by providing additional burying space for Christians, either at Sewri, in the manner suggested by the Board, or elsewhere.

Under the law, as it stands, we conceive, that the community generally are entitled to have sufficient places for the disposal of their dead, provided for them at the public expense, and those places must, we think, be so ordered as that they shall not be repugnant to the feelings of the particular races or sections of that community for whom they are intended. The fact that provision has for the most part been heretofore made by each separate race or section for the disposal of its own dead, does not, we think, whenever the time arrives for extending the existing provision or making fresh provision, detract from their right of having this done for them by the Municipality.

We do not, of course, fail to recognize the difficulty which may be felt in applying the general principles above indicated to some individual cases, but we are not sufficiently acquainted with the circumstances of the particular cases cited by way of illustration in your memo. to judge how far the Corporation, might have been under an obligation to provide separate burial grounds in those instances.

With reference to the concluding para. of your memorandum we feel no doubt, but that the Corporation can, in the present case (the Sewri Christian Cemetry), instead of providing another fit and convenient place elsewhere, expend money in the manner proposed in view to developing the capacity of the existing place.—We have, &c., CRAWFORD & BUCKLAND.

RE JOINT SCHOOLS' COMMITTEE.

BOMBAY, 8th December 1890.

FROM CRAWFORD, BURDER, BUCKLAND & BAYLEY,
TO H. W. BARROW, Esq., Municipal Secretary.

SIR,—We have the honour to acknowledge the receipt of your No. 8859, dated the 6th instant; and in returning the papers forwarded therewith, to express our opinion on the questions submitted to us.

The Joint Schools Committee are, by section 39 (7) of the Municipal Act, required to administer the School fund, which it is prescribed by section 120 shall comprise amongst other moneys "all sums made over to the Corporation by way of endowment or otherwise, for the promotion of primary education." The questions put to us seem to amount, therefore, practically to this: (1) Have the Corporation the power to take over the interest on the particular fund in question when such interest is "made over" to them by the Accountant General; and (2) if so, are they justified in so doing.

The Government Resolution (No. 1918, dated 9th September 1890) indeed apparently contemplates the payment of the interest by the Accountant General direct to the Joint Schools Committee, but this probably was merely an inaccurate way of stating the matter; for, it seems evident, having regard to the provisions of the Municipal Act, that it should be paid to the Municipal Fund and carried to the credit of "the School Fund" in the Municipal accounts. When placed to the credit of this latter fund, it devolves on the Joint Schools Committee to administer it in accordance with the By-laws passed by the Corporation and with rules made or approved by Government in that behalf. We can see no reason whatever to doubt the power of the Corporation to take over the interest from time to time in this way, for the purpose of being administered by the Joint Schools Committee in accordance with the By-laws and with the rules made Government, which latter apparently merely embody so far as the present case is concerned, the conditions indicated by the late Sir Mangaldas Nathubhoy, and are, if we correctly understand them, in no way inconsistent with the provisions of the Act. Nor do we think the fact that merely the interest is to be from time to time made over renders it in any degree less justifiable for the Corporation to take over the money "for the promotion of primary education."

The Joint Schools Committee,—a body appointed partly by Government and partly by the Corporation,—will be responsible for the observance of the conditions, and the Corporation, it seems to us, incur no more responsibility in the matter than in the case of any other endowment or money belonging to the school fund.—We have, &c., CRAWFORD, BURDER & Co.

JOINT SCHOOLS' COMMITTEE ESTABLISHMENT.

Letter, dated 18th February 1889, from Messrs. Crawford and Buckland, to the Municipal Commissioner :—

SIR,—At the recent interview which our Mr. Crawford had with you, you desired that we should consider and advise you as to the status generally of officers and servants subordinate to or to be appointed by the Joint Schools Committee, and particularly as to their position in reference to the retirement or pension fund.

The provisions of the present Municipal Act bearing upon this subject are to be found in Sections 39, 61 (g), 79, 80, 81, 82, 120, and 461.

The officers and servants whose status we have to consider fall under two classes, *viz.* :—

(a.) The Secretary to the Committee, and the clerks and messengers necessary to be employed in connection with its administrative work ; and

(b.) The masters, teachers, and other persons employed in the primary schools maintained out of the school fund.

Those under class (a) are, by the provisions of Sub-section (6) of Section 39, to be provided by the Corporation for the Joint Schools Committee, while the appointment and removal of those under class (b) are, by Sub-section (9) of the same section, expressly vested in the Committee itself, subject to by-laws duly made under Section 461, and to rules made or approved by Government.

The question then which arises is :—Are all or any of these persons, “Municipal officers or servants” within the meaning of Section 81 ?

The distinction drawn by sub-sections (6) and (9) of section 39 above referred to between the two classes is somewhat marked. There might have been some doubt on the language of sub-section (6), if read alone, as to whether the expression “provided” meant more than that the Corporation should provide for the pay of the officers and servants mentioned, but when read with Sub-section (9) it becomes evident, we think, that the appointment of officers and servants of class (a) is not intended like those of class (b) to rest with the Joint Schools Committee, but that the Corporation are to provide the actual officers and servants themselves. If this be so, it follows apparently that their appointment will rest with the Commissioner under Section 82 and their salaries will, we think, be payable out of the Municipal fund as distinguished from the school fund constituted under Section 120, they must in fact, in our opinion, be regarded in all respects as Municipal officers and servants, but we are inclined to think that their designations, &c., under the Joint Schools Committee need not necessarily be included in the Schedule to be brought before the Standing Committee for sanction under section 79 for, in so far as regards their services under the Joint Schools Committee, they can hardly be said to be permanent officers or servants “entertained in any departments of the Municipal administration” within the meaning of Section 80.

As regards officers and servants under class (b), on the other hand their appointment will rest so exclusively with the Joint Schools Committee and their salaries, &c., will be so exclusively payable out of the school fund to be administered by it that, having regard to the constitution of that Committee, we do not consider they can be held to be Municipal officers and servants at all, or that the provisions of Section 81 (f) can be held applicable to them. It is true, no doubt, that under clause (w) of

Section 461 the Corporation may make by-laws for (*inter-alia*) regulating the functions assigned to the Joint Schools Committee under Sub-section (9) of Section 39 (namely, in regard to the appointment and removal of persons coming within the class now under consideration), as well as for regulating the administration by the said Committee of the school fund under Sub-section (7) of the same Section, and can thus exercise a certain amount of control and supervision over the Committee in these matters; but such by-laws, if made, must be consistent with the Act, and though they may control, cannot, we think, deprive the Committee of the power of appointment and selection which is vested in them by Section 39 (9) and which is not, in our opinion, dependent on the existence of such by-laws, the power and duties with which the Joint Schools Committee may be invested, by by-law under Sub-section (10) of Section 39, coupled with Section 461, being powers and duties other than those already vested in such Committee by the Act.

To sum up therefore, it appears to us that the Secretary to the Joint Schools Committee and its clerks and messengers, provided under Sub-section (6) of Section 39 will be Municipal officers and servants, and will be subject to any regulations for the time being in force under Section 81, but that the masters, teachers and other persons employed in the primary schools and appointed under Sub-section (9) of Section 39 will not.—We have, &c.,

CRAWFORD & BUCKLAND.

PROPOSED BY LAW INVESTING THE JOINT SCHOOLS' COMMITTEE WITH POWER TO ENTER INTO LEASES.

EX-PARTE THE MUNICIPAL CORPORATION.

Re proposed by-law investing Joint
Schools Committee with power to
enter into leases.

Case for the opinion of Counsel.

The Joint Schools Committee is a body constituted under Section 39 of the City of Bombay Municipal Act, 1888. Four of the 8 members of whom it consists are appointed by the Corporation and the remaining 4 by Government.

By Sub-section (7) of Section 39 the Joint Schools Committee are to administer the school fund and to "provide thereout for the "accommodation and maintenance of primary schools which at any "time vest wholly or partly in the Corporation and for otherwise "aiding primary education in accordance with by-laws duly made "under Section 461."

Sub-section (10) of the same section runs as follows:—"The Joint Schools Committee may by a by-law made under Section 461 be invested with the powers and duties of any authority constituted under this Act in so far as shall be necessary or expedient in order to the fulfilment of the functions imposed on such Committee as contemplated in this Section and in Section 61, Clause (g), and to the extent to which such Committee is invested as aforesaid, the powers and duties of the said authority shall be in abeyance save as so vested and exercised accordingly."

Section 461 referred to in the last-quoted sub-section empowers the Corporation to make by-laws not inconsistent with the Act with respect to certain matters, and amongst others, Clause (u) "assigning the functions of the Joint Schools Committee under Sub-section (10) of section 39 regulating the exercise by the said Committee of its functions so assigned and of the functions assigned to it under Sub-section (9) of the said section, and regulating the administration by the said Committee of the school fund under Sub-section (7) of the said section."

Section 61 also referred to in Section 39 (10) prescribes the matters for which it is incumbent on the Corporation to make adequate provision, and Clause (g) is as follows:—"Maintaining, aiding and suitably accommodating schools "for primary education."

By-laws have been duly made by the Corporation under Section 461 (u), purporting to assign the functions of the Joint Schools Committee under Section 39 (10) to regulate those functions and those assigned under Sub-section (9) of Section 39, and to regulate the administration by the Committee of the school fund; copy of these by-laws is sent. By-laws 10 and 11 showing how the Committee are to regulate the school fund in accordance with an annual Budget may be referred to, otherwise these by-laws do not seem to bear on the present question.

The Joint Schools Committee were some time ago desirous of having a general form of lease prepared, under which they could take premises for the purposes of their several schools as favourable opportunity might offer.

The Solicitors in preparing the form pointed out that no by-law having been passed investing the Joint Schools Committee with the powers of the Corporation in regard to leasing of premises for the accommodation of schools for primary education, it was necessary that such leases be entered into by the Corporation themselves. The Joint Schools Committee thereupon requested that they might be invested by the Corporation with the necessary authority. The Commissioner consulted the Solicitors as to whether they saw any objection. The Solicitors replied that they saw none, and that the administration of the school fund being in the hands of the Joint Schools Committee under Section 39 (7) that Committee would seem to be obviously a proper authority to decide what premises are required for the schools and on what terms they should be taken and to take leases when those terms are arranged.

Eventually on the 3rd June 1897 the Corporation resolved that, pursuant to Section 465 of the Municipal Act, notice be given of the intention of the Corporation at a meeting to be held on 5th August 1897 to take into consideration a draft by-law which was then provisionally approved. A notification of such intention was accordingly duly published.

On the 24th July notice of objection to the proposed by-law was received from certain "Rate-payers, Electors, Residents and Citizens of Bombay."

On the 5th August 1897 the matter came on for consideration in view to the approval, or otherwise, of the draft by-law, and the objectors were heard by Counsel.

The question as to whether the Corporation could legally delegate its powers of leasing (*i.e.* taking leases) to the Joint Schools Committee or to anybody outside the Corporation was raised at this meeting, and it was determined that the draft should not be approved until the opinion of Counsel had been taken on the point. Copy of the proposed by-law and copies of the correspondence and papers so far as they are in any way material to the present question are sent herewith.

The powers of the Corporation in regard to the acquisition of property for the purposes of the Act are provided for in Sections 87 to 91. Section 87 gives them the power to acquire and to hold immoveable property, and this presumably would include the power to take leases of properties.

The notice of objection to the by-law of the 24th July last while laying down the proposition that the "Municipal Corporation cannot now without proper authority and on the mere representation of the Joint Schools Committee divest itself of responsibility" does not support that proposition by any arguments, nor does it suggest any reason for holding that the proposed by-law is not admissible under Sections 39 (10) and 461 (*u*), nor, so far as we are aware, was there any discussion at the Corporation meeting which throws any light on this point.

Counsel is requested to advise—

1. Whether it is legally competent to the Corporation to delegate its powers of acquiring property on lease to anybody outside of the Corporation.

1. Under Section 69 of the Municipal Act all contracts for any purpose of the Act have to be made on behalf of the Corporation by the Commissioner as the Commissioner is a Municipal authority. It seems clear that under Section 39 (10) the Joint Schools Committee could by by-law be invested with the powers of the Commissioner in entering into leases for accommodating primary schools, but they would simply be substituted for the Commissioner and would be subject to all the

provisions which bind the Commissioner in Sections 69, 70 and 71. The lease would have to be in the same form as present entered into on behalf of the Corporation by the Joint Schools Committee. I do not see any advantage to be derived by substituting the Joint Schools Committee for the Commissioner as the hand to execute the contract.

I am of opinion that the Corporation cannot delegate its powers to the extent of allowing the Joint Schools Committee to enter into leases on their own behalf although it can do so to the extent of allowing them to execute the leases on behalf of the Corporation.

2. Whether it is legally competent to the Corporation to make the proposed by-law.

2. The proposed by-law appears to me to be objectionable as it seems to contemplate that the Joint Schools Committee shall enter into leases of which they, and not the Corporation, shall be leases. Although the Corporation is a Municipal authority (see Sec. 4), I do not think it has the powers to make contracts itself. No doubt its seal is affixed to certain contracts (Sec. 70), but I think that that seal cannot be affixed to any contract except as provided by Sec. 70, Cl. 2. The whole *modus operandi* of making contracts on behalf of the Corporation as provided for in Sec. 69 and following sections is in my opinion against any delegation of authority to make contracts, except to the extent mentioned in last para. of answer 1. I doubt also very much whether my opinion is correct even as to allowing the Joint Committee to execute leases on behalf of the Corporation, for Section 71 provides that no contract, not executed as provided in Section 70, shall bind the Corporation, and Section 70 requires the contract to be in the form such as would bind the Commissioner if such contract was on his behalf.

On the whole, I should advise the Municipality not to pass the by-law proposed.

J. D. INVERARITY.

RE MAJOR TULLOCHS' FEES.

CONTRACTS.

CASE FOR COUNSEL'S OPINION.

On the 11th November 1891 the Municipal Commissioner, with the sanction and on behalf of the Corporation, entered into a contract with Messrs. James Simpson and Co., Limited, under which the latter undertook to manufacture, ship to Bombay, and erect here for the Love Grove sewage outfall, four sets of Worthington Triple Expansion uncompensated steam engines and sewage pumps with fittings, &c., complete. The price was payable by instalments, and the last instalment was payable at the expiration of one year from the date of the completion of the erection of the machinery on the certificate of the Engineer that it had been duly performing the work for which it was guaranteed. The machinery was duly erected and the pumps started in 1893, but it soon became evident that, owing to the very large quantities of silt (such as road detritus, sand, &c.) brought down by the sewers and taken up into the pumps, the wear and tear to certain parts of the pumping machinery was such as to necessitate frequent repairs and renewals. Numerous questions arose with the contractors as to how the cost of these repairs and renewals should be borne, but these in the result have all been since satisfactorily arranged, the machinery finally taken over and paid for and the contractors' deposit returned to them. Meanwhile, having in view the difficulties which had already been met with by reason of the large quantities of silt, it was proposed in 1893 that silt pits should be constructed on the main sewer for the purpose of intercepting as much as possible of the silt before it reached the pumps, and thus obviating to some extent the excessive wear and tear to the parts in question. Mr. James, the Drainage Engineer, accordingly prepared designs for these works, and on the 23rd September 1893 submitted them to the Commissioner through the Executive Engineer, Mr. Murzban. The Executive Engineer examined and reported very fully on Mr. James' proposals and, while agreeing with them in general principle, differed from them on several important points of detail, and Mr. James W. Smith, Special Drainage Engineer, Municipality, was then, at the suggestion of the Executive Engineer, asked to advise and did so; in the result it appeared that there were several difficult questions of more or less importance and involving technical considerations upon which the Municipal Engineers were unable themselves to agree or to satisfy the Commissioner so as to enable him to come to any definite conclusion, and he therefore felt a reference to a Consulting Engineer to be inevitable. Major Tulloch, R. E., had for many years acted for the Municipality in England as

their representative in the matter of supervising the manufacture of, and testing pipes, machinery, &c., and had in fact as their representative superintended the manufacture and supply of the Worthington sewage pumps supplied by Messrs. James Simpson and Co., Limited, as above mentioned. The Commissioner had also on previous occasions referred to him for advice on difficult engineering matters and paid him fees within the compass of his (the Commissioner's) discretional allowance (an allowance usually budgetted for at Rs. 5,000 per annum). The Commissioner accordingly, after a meeting with the Municipal Engineers on the 21st December 1893, seems to have determined on a reference to Major Tulloch, for, though there is no copy of any such reference on record, it does appear, from a subsequent letter from Major Tulloch dated 16th March 1894, that he received from the Commissioner a letter of the 14th February with enclosures, and these enclosures were no doubt copies of several reports which had been made on the subject of the silt pits by the Executive Engineer, the Drainage Engineer, and the Special Drainage Engineer respectively. On receiving these papers, Major Tulloch on the 9th March 1894 telegraphed to the Commissioner in the following terms: "Catchpits in sewers will fail; don't attempt them; send plans, sections, and levels of works at outfall, and I will design necessary works". On the 15th March 1894 the Commissioner (Mr. Acworth) telegraphed in reply to Major Tulloch as follows: "Please write your views on silt pits; Engineers here can design anything required." To this Major Tulloch replied by wire on the 17th March 1894—"Very sorry indeed, but prefer having no responsibility for works not designed by myself; success in this case will depend on numerous details quite impossible to explain in writing; if works failed, blame would be attached to me by public; cannot afford to run risk; no Engineer with name to lose could accept such position." On the 19th March 1894 the Commissioner wired to Major Tulloch—"Plans, levels, sections will be sent next mail." And on the 31st March the Commissioner wrote him—"with reference to your telegram of the 17th instant, I have the honor to forward by to-day's mail three plans showing the levels and sections of the works at the Love Grove Pumping Station." On the 16th March 1894 Major Tulloch wrote to the Commissioner as follows:—

"16th March 1894.

"SIR,—In reply to your letter of the 14th February and enclosures, I sent you the following telegram on the 9th instant, when, being out of town, I could not write in time to catch the mail:—

"'Silt pits in sewers will fail. Don't attempt them. Send plans, sections, and levels, of works at outfall, and I will design necessary works.'

"It is not at all the right way of proceeding, and it is quite impossible to explain satisfactorily in writing how the sediment in

the sewage should be arrested. If the plans are sent, you may depend on my expediting the preparation of the designs of the necessary works to the very utmost, as I know how urgently they are required. If it has not already been included among the plans you have sent, a block plan showing the boundaries of the Municipal property at the outfall with all the levels marked on it would be useful.—I am, yours obediently.—A. TULLOCH.”

“ P. S.—I shall feel obliged if you will kindly send me the cost of the telegram, which was £5 16s (28 words) but one (Commissioner) charged as double, having more than nine letters in it—or 29 words at 4s. = £5 16s.”

No. 102 of 2nd April 1894.

£5 16s to be remitted to Major Tulloch. Debit to my discretionary contingencies.—H. A. ACWORTH.

On the 20th April 1894 Major Tulloch acknowledged the receipt of the plans and stated that “ the designs for the works for intercepting the sand at the sewage pumping station shall be prepared with all the despatch possible.”

On the 16th July 1894 the Commissioner wrote to the Municipal Secretary for the purpose of obtaining an extra grant of Rs. 2,000 for repairs to machinery at Love Grove (copy letter herewith), and in connection with the necessity for such repairs said : “ The question of intercepting the silt before it reaches the pumps has been by no means lost sight of, and I have had reports from, and discussions with, the Executive Engineer, the Special Drainage Engineer, and the Drainage Engineer, but all these officers differ to such an extent as to the remedy to be applied that I referred the question to Major Tulloch, R.E., who has a scheme under preparation which he informs me will fully meet the difficulty. He advised me last mail that we might expect it in two or three weeks.”

The rupees 2,000 asked for was recommended by the Standing Committee and sanctioned by the Corporation and the Commissioner's letter of the 16th July 1894 just quoted was placed before both those bodies. On the 9th November 1894 Major Tulloch sent out his detailed plans and sections with an elaborate report explanatory of his designs, and on the 16th and 23rd November 1894 respectively he sent out detailed estimates. These designs comprised (stated briefly) four sets of double settling tanks into which the sewage, before reaching the pumps, was to be diverted by a new main sewer going off from the existing sewer, and these

tanks were to be fitted with penstocks, sludge chambers and ejectors worked by machinery. On the 11th January 1895 Major Tulloch wrote to the Commissioner demi-officially in reference to his scheme and, after discussing the question of his fee, fixed it at £750 (a copy of this letter is sent herewith). The Commissioner demi-officially asked the opinion of Mr. Murzban, Executive Engineer, as to this fee, and a copy of his reply, dated 7th February 1895, is sent. Upon this the Commissioner endorsed "Put up when estimates for the silt pits at L. G. (Love Grove) come in; this will be part of them."

Major Tulloch's scheme and designs meanwhile had been referred to the Executive Engineer for consideration and report, and on the 7th May 1895 he reported :—" Major Tulloch's scheme is as perfect as it can possibly be made for the interception and disposal of silt," but he then went on to recommend that for financial reasons it should not be adopted and showed that it would be better to incur the heavy recurring expenditure which experience had shown would be necessary for the renewals and repairs of the pumping machinery than incur the very heavy capital expenditure (estimated out here at over 5 lakhs) which the adoption of Major Tulloch's scheme would involve, and moreover he drew attention to sanitary and other considerations which told against the scheme. On the 11th May 1895 the present Commissioner placed the papers before the Standing Committee for consideration with his letter to the Municipal Secretary of that date (copy herewith) in which he says :—"In conclusion I may say that, though such an important scheme demands the careful consideration of the Standing Committee, I cannot think that any good case has been made out for its adoption." Upon this, the Commissioner was asked to furnish the Committee with any further information there might be available on the subject together with any communication to the Corporation or the Committee by the Commissioner regarding a reference to Major Tulloch in this matter (a copy of the Commissioner's reply to this reference, dated 20th May 1895, is sent herewith). The Standing Committee eventually resolve :—" That the opinion of Counsel be taken for the the information of the Standing Committee, as to whether by the action of the Commissioner, whether or not such action was authorised by the Corporation or the Standing Committee, the Municipal Corporation are in law committed to the payment of the fees which may be found due to Major Tulloch for the plans and estimates prepared by him in the matter of the proposed silt pits at Love Grove Pumping Station." Mr. Acworth, it appears, had not the slightest idea of incurring such a heavy charge when he referred the matter to Major Tulloch. Had he supposed he was incurring an obligation beyond the limits of his grant for discretional contingencies, he would, of course, have gone to the Corporation and Standing Committee first for sanction. He was, in fact, quite as much startled as the Standing Committee when the fee was named.

Major Tulloch on the other hand, as will be seen from his telegrams, declined to undertake the responsibility of recommending a scheme except on his own designs and, having regard to what he has actually done, it does not seem to be seriously suggested that the fee he asks is excessive, and it is apparently agreed on all hands that his scheme, which must have involved much special labour, is an excellent one for the purpose for which it is designed. By the Commissioner's letter of the 16th July 1894, he no doubt brought to the notice of the Standing Committee and Corporation the fact that he had referred the matter to Major Tulloch, but he did this only incidentally and did not inform them—indeed, obviously, did not know himself the extent of the obligation he had incurred, nor did he ask sanction to the employment of Major Tulloch for the purpose. No payment, of course, could be made to Major Tulloch except in conformity with section 115 of the Municipal Act, and as there is no budget grant which would cover such a payment, and it certainly is not one which falls under either of the excepted items mentioned in the proviso to that section, the sanction of the Corporation is of course necessary before the payment can be made. The question would seem to be whether the Corporation can be held legally liable to Major Tulloch for the value of his services rendered at the request of the Commissioner, whether in fact, in order to hold the Corporation responsible for his fees, it was incumbent on Major Tulloch under the circumstances to satisfy himself, before undertaking the work, that the Municipal Commissioner had received sanction to employ him. Major Tulloch, no doubt, naturally assumed that the Commissioner had sufficient authority, but it seems equally certain that as a matter of fact he had not. Under section 222 the Commissioner is required to maintain and keep in repair all Municipal drains and, when authorised by the Corporation, to construct such new drains as may be necessary. Under section 224 he may enlarge, arch over, or otherwise improve any Municipal drain. Under section 225 the Municipal drains are to be from time to time properly flushed, cleansed, and emptied, and for that purpose "the Commissioner may, when authorised by the Corporation in this behalf, construct or set up such reservoirs, sluices, engines or other works as he shall from time to time deem necessary."

Counsel's attention is drawn to the provisions of the Act in regard to the making of contracts (sections 69, 70 and 71). Section 69 provides [clause (b)] that no contract for any purpose which under the Act the Commissioner may not carry out without the approval or sanction of some other Municipal authority shall be made by him until or unless such approval or sanction has first of all been duly given. Clause (c) prohibits the Commissioner from entering into contracts (other than for acquisition of immovable property) which will involve expenditure exceeding Rs. 5,000, unless previously approved by the Standing Com-

mittee. Clause (d) requires that every contract involving more than Rs. 500 and not more than Rs. 5,000 shall be reported to the Standing Committee within 15 days. Section 70 (1) (b) requires that every contract "for the execution of any work" or the supply of any materials, &c., which will involve more than Rs. 500 shall be in writing and sealed with the Corporation's seal. Section 71 provides that no contract not executed as in section 70 provided shall be binding on the Corporation.

Counsel is requested to advise upon the question raised by the Standing Committee's resolution, namely :—

QUERIES.

Whether by the action of the Municipal Commissioner, whether or not such action was authorized by the Corporation or the Standing Committee, the Municipal Corporation are in law committed to the payment of the fees which may be found due to Major Tulloch for the plans and estimates prepared by him in the matter of the proposed silt pits at Love Grove Pumping Station.

OPINION.

Where a Corporation is created and its constitution is embodied in an Act of the Legislature and limits are imposed on the authority of the officers of the Corporation by its constitution, all persons dealing with the agents of the Corporation must be deemed to have notice of the limits set to their authority (Pollock on Contracts, p. 121). Major Tulloch therefore must be taken to have known that the Commissioner had no power to agree with him expressly or impliedly, to bind the Corporation to a payment in respect of work done by him beyond the statutory limit. I am of opinion that the Corporation are not bound legally. I see no evidence of ratification which is in law equivalent to a previous authority.

I also think that section 70 is imperative and that the absence of a contract in writing under the seal of the Corporation is fatal to the claim of Major Tulloch see *Hunt vs. The Wimbledon Local Board*, L. R. 4, C. P. Division, P. 48, a case very much on all fours with the present one (assuming a verbal order by the Corporation). That case I think also shows that Major Tulloch could not succeed on the ground that he was suing on an executed consideration, and that the Corporation had enjoyed the benefit of his work. I am of opinion that in either case put in the question the claim of Major Tulloch cannot be enforced against the Corporation in Court, see also *Young vs. The Mayor of Leamington*, 8, pp., Co., p. 517). The case of *Eaton vs. Basker*, 7, Q. B. Divn, p. 529, I do not think is applicable to the present case, as the parties here must have contemplated that the value of the work was to be more than Rs. 500.

And to advise generally.

J. D. INVERARITY.

October 2nd, 1895.





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